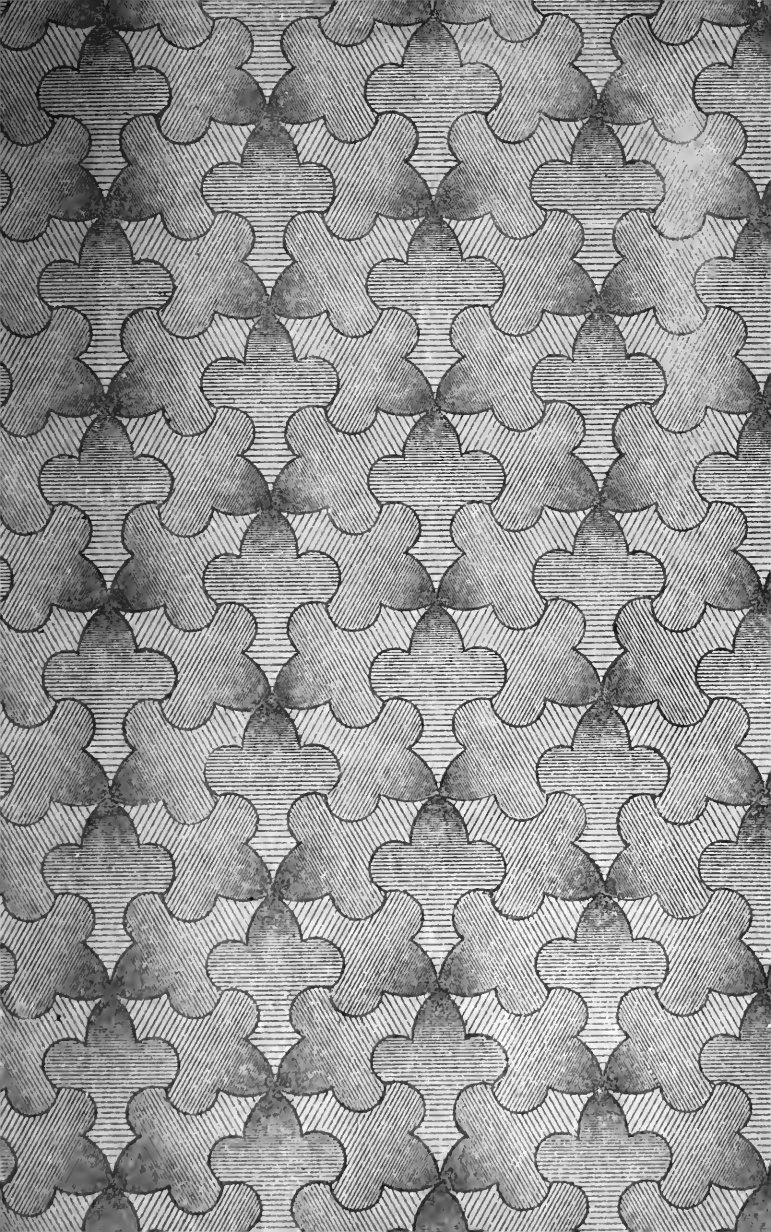




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THE
CONSTITUTIONAL
HISTORY OF SOUTH AUSTRALIA

During Twenty-one Years,

FROM THE
FOUNDATION OF THE SETTLEMENT IN 1836
TO THE
INAUGURATION OF RESPONSIBLE GOVERNMENT IN 1857.

BY THE
HONORABLE BOYLE TRAVERS FINNISS, J.P.

LATE COLONIAL SECRETARY OF THE PROVINCE,
AND
FIRST CHIEF SECRETARY
UNDER RESPONSIBLE GOVERNMENT.

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PREFACE.

THIS volume of the history of Responsible Government in South Australia is now placed before the public. It is not written to advertise the resources or advantages of the Province, and it claims no connection or association with Government supervision. As a labor of love it has served to amuse the leisure hours of a few years of a ripe old age; since my official relations with the colony were commenced in 1835, when I was yet in the Military Service of His Majesty the late King William the Fourth.

It appeared to me a duty to the community of South Australia, in which I have passed half a century, during which the vigor of my life was laboriously occupied in the Civil Service of the Government.

Having witnessed or participated in most of the events which I have attempted to describe during the rule of eighteen gentlemen who at different times have held the reins of power as Administrators of the Government of this Province, I have felt it incumbent on me to record my experiences and memories for reference, if they should be deemed valuable enough, by the future historian of Federated Australia—a history which will be written in the near future, and the author of which will have to seek his materials in the separate archives of the Confederate States.

Preface.

It is presented to the reader in a form and type which I hope will not try his patience, and will render this little volume fit for the table of the drawing-room and the shelves of the library of the studious. I now launch this history of the rise of the Constitution in South Australia on the ocean of time, dedicated only to the "Time Spirit," to whose judgment I commit it.

B. T. FINNISS.

KENT TOWN, SOUTH AUSTRALIA.

January 6th, 1886.



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ERRATA.

Page 35, thirteenth line from top, for "secondry" read "secondary."

Page 44, seventh line from bottom, for "disadvantages" read "disadvantage."

Page 49, the two first lines should be taken out, being a repetition of the two last lines of previous page.

Page 52, third line from top, for "operations" read "operation."

Page 53, fifth line from top, for "Mendy" read "Mundy."

Page 57, fourth line from top, for "administerative" read "administrative."

Page 58, seventeenth line from top, for "work" read "works."

Page 132, third line from bottom, for "remaing" read "remains."

Page 141, third line from top, for "corteous" read "courteous."

Page 158, third line from bottom, for "principle" read "principal."

Page 205, seventeenth line from top, for "imperative" read "inoperative"

Page 213, third line from bottom, for "changed" read "change."

Page 217, seventeenth line from top, for "1885" read "1855."

Page 253, fifth line from top, for "Ornsby" read "Ormsby."

Page 260, second line from top, for "eight years" read "three years."

Page 269, third line from top, for "1854" read "1855."

Page 272, fifteenth line from top, for "Birmingham" read "Buckingham."

Page 275, thirteenth line from top, for "imperative" read "inoperative."

Page 280, sixteenth line from top, for "Legislature" read "legislation."

Page 345, tenth line from top, for "form" read "from."

Page 379, twentieth line from top, for "Government" read "Governments."

Page 379, second line from bottom, for "insufferable" read "insuperable."

Page 380, ninth line from bottom, for "Rirchard" read "Richard."

Page 383, eleventh line from bottom, for "consistenly" read "consistently."

Page 388, second line from top, for "American" read "Crimean."

Page 93, sixteenth line from top, for "imparted" read "imputed."

Page 445, eighth line from top, for "Bonny" read "Bonney."

Page 481, fifth line from bottom, for "after the prorogation" read "before the prorogation."

Page 492, for "Chapter XIII" read "Chapter XII."

Page 555, eighth line from bottom, for "give" read "given."

THE CONSTITUTIONAL HISTORY OF SOUTH AUSTRALIA.

CHAPTER I.

Establishment of the colony of South Australia by Act of Parliament, in the year 1834, 4th and 5th William IV., c. 95.—First sales of land—First expedition from England in 1836—Arrival and installation of the Governor—First newspaper published by Mr. George Stevenson in 1837—Rule of Captain Hindmarsh, R.N.—Capital city selected by Colonel Light, Surveyor-General, and named “Adelaide”—Delays in the surveys—Disorganisation in the Civil Service—Cattle and sheep driven down the River Murray from the back settlements of New South Wales—Conflicts of the overlanders with the native tribes—Recall of Governor Hindmarsh—*Ad interim* Government of Mr. George Milner Stephen—Arrival of Colonel Gawler as Governor—Bushrangers from New South Wales—Expenditure of Colonel Gawler leads to his recall—His drafts on the British Treasury dishonored—Succeeded by Captain George Grey—Captain Grey appointed Governor of New Zealand—Major Robe, Governor.

THE first settlement of the British province of South Australia was authorised by an Act of Parliament passed in the year 1834, 4th and 5th William IV., c. 95.

This Act provided : That the entire proceeds of the sales of land in that portion of Australia should be devoted to transport laborers from the mother country to the chosen region ; that no convicts should at any time be sent to this favored colony ; and that a constitution should be granted to the inhabitants as soon as they numbered 50,000 souls.

Commissioners were appointed by the Crown to manage the land sales and emigration; they consisted of:

COLONEL TORRENS, Chairman.

| | |
|-----------------------|------------------|
| GEORGE FIFE ANGAS | S. MILLS |
| E. BARNARD | JACOB MONTEFIORE |
| W. HUTT | GEORGE PALMER |
| J. G. LEFEVRE | T. WRIGHT |
| W. A. MACKINNON, M.P. | |

G. BARNES, Treasurer ROWLAND HILL, Secretary

Colonial lands were sold by them in England to the value of £35,000; and other preliminaries being completed, the first expedition set sail from England in the year 1836. During the first year nine vessels conveyed the Governor, the Surveyor-General, and other passengers to the new settlement.

The list of these vessels for which I am indebted to the *South Australian Register* of June 3rd, 1858, is as follows:

| Date of Arrival. | Ship. | By whom sent. | Tons. | Total Pas'sgers. |
|------------------|--------------------|-------------------|-------|------------------|
| July 27 ... | Duke of York ... | S. A. Company ... | 190 | 38 |
| Do. 30 ... | Lady M. Pelham ... | Do. ... | 206 | 29 |
| August 16 ... | John Pirie ... | Do. ... | 105 | 28 |
| Do. 21 ... | Rapid ... | Commissioners ... | 162 | 24 |
| September 11 ... | Cygnets ... | Do. ... | 239 | 84 |
| October 5 ... | Emma ... | S. A. Company ... | 164 | 22 |
| November 2 ... | Africaine ... | Various ... | 316 | 76 |
| December 16 ... | Tam o' Shanter ... | O. Giles ... | 360 | 74 |
| Do. 28 ... | H.M.S. Buffalo ... | Commissioners ... | 850 | 171 |
| | | | | 546 |

The total arrivals by sea in 1836 were therefore 546 souls, of whom 375 preceded the arrival of the Governor, the proclamation of the colony, and the institution of the laws. Of the 546 arrivals in 1836 105 were independent settlers, the remainder having been sent out either wholly or partly by the emigration fund or by private aid.

The *Buffalo*, containing the Governor and party, in reality came to anchor off our shores four days prior to the landing at Glenelg, and to the proclamation of the colony beneath the "Old Gum Tree." On the 24th of December the royal vessel entered the harbor of Port Lincoln, the *Cygnets* then lying at anchor in that harbor.

To this list of vessels I add in the appendix A the names of the passengers who, on arrival, were enrolled amongst the Civil Servants in the Service of the Colonial Government and of the Colonization Commissioners.

The earliest authentic account of the first settlement of the Province was published in the *South Australian Gazette and Colonial Register* of June 3rd, 1837, and was written by the late Mr. George Stevenson, who left England in 1836 in the capacity of Private Secretary to the late Sir John Hindmarsh, Captain R.N., the first Governor of the new colony. South Australia, as originally defined, was situated on the southern part of New Holland, between the meridians of east longitude 134° and 141° , bounded

on the north by the 26th parallel of south latitude, and on the south by the ocean. The name of South Australia has puzzled writers, who in later times confounded this Province with the colony of Victoria, situated on the southern portion of the Island Continent, and which from its position is more entitled to the designation of South Australia.

Captain Hindmarsh left England in the *Buffalo*, a troopship on the list of the Royal Navy, accompanied by the principal officers of the settlement, including Mr. George Stevenson, who was present at the landing, and consequently saw what he describes. He must accordingly be reckoned amongst the original pioneers. Having been connected with the London Press he made arrangements with the proprietor of a printing press, Mr. Robert Thomas, to start a newspaper in the Province soon after his arrival. Mr. Stevenson was eminently fitted for the position of editor and conductor of the *South Australian Gazette and Colonial Register*, the name which he gave to the first newspaper printed in South Australia. He was a man of great information, and, it may be added, was possessed of superior intellectual ability. Power of thought was written on his ample forehead; and a high order of mind could be traced in his countenance by the physiognomist. He was of large stature, about six feet four inches tall, indicating power of body as well as of mind, but gracious and affable in his deportment. He wrote an account of the ceremony attending the first landing

and from his account I now quote as it appeared reprinted in the *South Australian Register* of January 5th, 1858, a paper which had then succeeded the journal edited by Mr. Stevenson.

“ARRIVAL AND INSTALLATION OF THE GOVERNOR.

“Since the month of March, 1836, vessels had been continually leaving England for our new colony. The *Rapid*, with Colonel Light, the Surveyor-General; the *Cygnets*, *Africaine*, and *Tam o’ Shanter*, with the rest of the Surveyors, Mr. Gouger, the Colonial Secretary, Mr. Brown, the Emigration Agent, and a strong party of laborers; the South Australian Company’s ships the *Duke of York*, *Lady Mary Pelham*, *Emma*, and *John Pirie*, with the Company’s officers, servants, and stores had all arrived in safety, with the exception of the *Tam o’ Shanter*, which met with an accident at the mouth of the harbor, the consequence of which, however, to the ship and cargo have not been so serious as at first they were expected to be.

“On the morning of December 24th H.M.S. *Buffalo* entered the magnificent harbor of Port Lincoln, and found the *Cygnets* at anchor in Spalding Cove. Captain Lipson, R.N., Naval Officer and Harbor-Master, came on board with a letter from Colonel Light, the Surveyor-General, to His Excellency the Governor, announcing the most desirable location of our metropolis to be on the eastern side of the Gulf St. Vincent, at the same time encouraging us with a most glowing description of that portion of the

country. The Governor, accompanied by his Private Secretary, the Resident Commissioner, and the Harbor-Master, landed at the head of Spalding Cove. There is no fresh water in the Cove, and the soil around its shores is barren. It is covered with scrubby wood, apparently a stunted variety of the *eucalyptus*. The view of the harbor of Port Lincoln itself, however, from Cape Donnington and the entrance to Spalding Cove, is beyond description fine. We, who had for our last port the splendid harbor of Rio de Janeiro, felt no difficulty in giving the preference to Port Lincoln. The ranges of beautifully-wooded hills rising behind Boston Island, extending on the one hand to the head of the harbor, and on the other along the western shores of Spencer's Gulf, as far as the eye could reach, plainly indicated a rich and fertile country. In consequence, however, of the intelligence conveyed in Colonel Light's letter respecting the proposed location in St. Vincent's Gulf, and the knowledge that the officers of the Government who had preceded His Excellency were anxiously awaiting his arrival on the plains near Mount Lofty, it was determined to proceed thither without delay, and in company with the *Cygnets*, the *Buffalo* came to anchor in St. Vincent's Gulf, Mount Lofty bearing due east, on the morning of the 28th.

“At 2 o'clock of the same day, His Excellency, accompanied by the ladies of his family; Mr. Fisher, the Resident Commissioner; Mr. Stevenson, His

Excellency's Private Secretary ; the Rev. Mr. Howard, Colonial Chaplain ; Mr. Gilles, Colonial Treasurer ; and their families, proceeded to the shore in three boats, escorted by a party of marines, and landed on the beach at Sturt's River. They were received and welcomed by Mr. Gouger, Mr. Brown, Mr. Gilbert (Storekeeper), Mr. Kingston (Deputy Surveyor), Mr. Morphett, Mr. Thomas, and the other gentlemen who had fixed their temporary habitations on the plain.

“ His Excellency met the other members of Council in Mr. Gouger's tent, where His Majesty's Orders in Council, erecting South Australia into a province, and appointing the colonial officers, and His Excellency's Commission as Governor and Commander-in-Chief, were read, and the customary oaths administered to the Governor, members of Council, and other officers present.

“ The Commission was afterwards read to the settlers, of whom about 200 were present. The British flag was displayed under a royal salute. The marines fired a *feu de joie*, and the *Buffalo* saluted the Governor with 15 guns. A cold collation, provided for the occasion, was laid out in the open air, of which the party partook. The healths of ‘ His Majesty,’ ‘ The Governor,’ ‘ Officers,’ ‘ Success to South Australia,’ and many other loyal and appropriate toasts were given and drunk with great enthusiasm ; and our National Anthem, combined with the circumstances under which it was sung, had more of grandeur in its

simplicity than those who have only heard it in a theatre can conceive.

“Nothing could be more delightful or promising than the aspect of the plains named by His Excellency, Glenelg, in which the Government was constituted. They are of great extent, as nearly as could be guessed twenty miles in length by about eight in breadth. The soil appeared to be of the richest quality, and was pronounced equal, by those who had seen both, to the prairies of Ohio and Indiana. Numerous splendid trees of the *eucalyptus* genus, the *Banksia rosa marina* folia, in full flower, studded the plain. The lupin, buttercup, and several of the wild flowers of our own country, were met with and hailed with delight. Parrots, parroquets, and quails were found in great variety. Everything indicated, in short, the wild profusion which Nature delights to throw over her most favored spots, and few of the agriculturalists present but hoped ‘their lines would fall in such pleasant places.’

“The proceedings of the day concluded happily as they had begun. Good feeling and good fellowship prevailed on all sides, and

‘MAY SOUTH AUSTRALIA FLOURISH!’
was the earnest prayer of every heart.”

The rule of Captain Hindmarsh, which has few features worthy of record, nevertheless included an era involving some important events. The capital city of the new Province, to be called Adelaide, was

selected and surveyed, and the country lands, divided into what were called preliminary sections, of 134 acres each, were allotted. Delays necessarily ensued in obtaining possession of lands sold in England before they could be measured off, and these delays operated with fatal effect upon *bonâ fide* settlers, as their small capital was absorbed in the cost of living and shelter before they could even commence to break up any land by plough or spade. This, however, if foreseen, would have prevented the purchase of any lands at all by any but large investors, who could bide their time. Other causes of this delay are not difficult to trace. There were no means of transport to plant the survey parties on the field and carry water and provisions. The survey laborers were dissatisfied with the rate of wages under which they had agreed to work when engaged in England, and most of them chose rather to be free men. The arrival of the *Coromandel* with the first shipment of emigrants contributed in some measure to this result, for the body of laborers by that ship selected with great care by the South Australian Commissioners being fettered by no agreements made their own terms with employers, and taunted the surveyors with being two-shilling slaves, claiming for themselves four shillings a day as the proper reward of labor. This demand soon reached a much higher figure, and ten shillings a day was paid by many of the early capitalists. It was difficult under the circumstances to organise survey parties, and there

was in addition great irregularity in the issue of rations, which for some time consisted only of salt meat and small stores. Abundant stores had been shipped from England, but they were sold to capitalists to put the resident commissioner in funds to meet pressing unforeseen emergencies. The system of payment by orders on the storekeeper at first adopted was not found to answer, and was soon abandoned for cash payments. Vessels arrived from Tasmania and other parts with stores of fresh provisions requiring specie payments, and an immigration was setting in overland from the back settlements of New South Wales, bringing in its train herds of cattle and sheep—these men were called the overlanders, and an interesting and instructive chapter was written by Captain Grey, descriptive of their proceedings, in his work which appeared at the time. I shall have something to say on this subject presently, but in the meantime I must conclude my remarks on the surveys previously commenced. When it was found that delays in putting settlers in possession of their country lands were inevitable, Mr. George Strickland Kingston, the deputy-surveyor, was dispatched to England to represent the state of things to the Commissioners and bring out assistance and additional instruments. In the meantime a rough topographical survey was being carried on to inform Colonel Light of the nature of the country, and point out the best sites for survey in order that the purchasers of preliminary land-orders

might obtain possession of the richest parts of the country. The claims of the early settlers became so urgent, and the Governor's party backed up their claims so earnestly that the Surveyor-General was driven to the expedient of at once projecting the trigonometrical survey on a plan, in order that the country might be divided into sections on the map, numbered in proper order, and offered for selection. This I was directed to effect, and the first selection by preliminary land-order holders was accomplished in this way, enabling them to take possession; for the natural features being laid down on the maps they were enabled to recognise the lands of their choice and commence occupation accordingly. The boundaries of the lands were then measured off in accordance with the diagrams on the plan, and this more complete survey was being proceeded with when Mr. Kingston arrived from England under contract to complete the surveys of preliminary lands in case Colonel Light should decline to execute the work under special agreement as to time. This led to the resignation of Colonel Light, and the direction of the surveys by Mr. Kingston, who in his turn was superseded by Captain Frome, of the Royal Engineers, appointed in England Surveyor-General, and accompanied by a party of the Royal Sappers and Miners as laborers. I have not mentioned the name of Captain Charles Sturt, who arriving in the colony during the administration of Mr. George Milner Stephen, after the recall

of Captain Hindmarsh, held the office of Surveyor-General for a short time only.

The recall of Governor Hindmarsh had been due to the party conflicts between him and the officers of the Land Department, under the Resident Commissioner, Mr. James Hurtle Fisher. These had produced a complete disorganisation in the Civil Service, and the resignation or dismissal of almost all the original members of the Executive Council and of the officers, who appointed by the Commissioners in England, acted under the special orders of the Resident Commissioner who represented them in the colony. I forbear to mention the individual acts which led to this state of things since they had little if any effect on the ultimate issue. But in singling out important events which left their mark in the development of the infant colony I must dwell for a short space on the influx of men and capital from New South Wales by way of the River Murray to which I have previously alluded; for to this immigration South Australia is chiefly indebted for the prosperity she enjoys through the success of the pastoral interest, first known as the squatters, a term which should not be applied to those who hold their lands under lease and rent from the Government. As soon as it was well known in New South Wales that a market was open to the back settlers, and that a large demand for cattle and sheep must naturally follow the extensive immigration which was setting in from England under the South Australian Act, capita-

lists in their own person or by their agents commenced to pour stock into this province. Hawdon, the Duttons, Captain John Finnis (no relative of the author), Mr. Mundy, soon to be Colonial Secretary of South Australia; Eyre, Bonney, and others, were on the move, and the lowing of herds and the bleating of sheep soon disturbed the stillness of the desert. Conflicts with the blacks, then numerous on the line of route, and warlike too, led to some loss of life, and some really formidable battles ensued, so much so that Captain Grey, the Governor who succeeded Colonel Gawler, found it necessary to dispatch a strong party of police and volunteers, under Major O'Halloran, to keep the route open. The hornets' nest, as the point on the Murray was called, where the blacks made the most determined stand, was forced by Major O'Halloran's party, and a considerable slaughter of the natives attested the reality of their resistance. This was made the subject of enquiry before the whole bench of magistrates, and is no doubt duly recorded in the minutes of the Executive Council as well as by the press of the day. The moral world, embracing in its scope religious, social, and political phenomena, is subject no less than the material world to the laws of progress or evolution; the laws of cause and effect everywhere prevail, and whilst effects may be fleeting and shadowy, their causes may operate variously under different conditions, and in the lapse of time produced new phenomena. The overlanders still act

as a force in diffusing their influence throughout the entire community, which profits by the original impulse. This will be apparent if we only reflect on what would have been the progress of the pastoral interest if originally left to start into existence and propagate itself through the medium of the importations of stock by sea. A few attempts of this kind proved failures in comparison with the results obtained by the overland route. Thus sheep were bought and shipped in Tasmania by South Australians at an immense sacrifice through mismanagement on the voyage, where the greater part perished. One of our first occupiers of large tracts of country under the special survey system, which permitted the purchase of blocks of land of not less than 4,000 acres, whose holding at Barossa was acquired through my agency, informed me that his sheep imported from Tasmania cost him three pounds a head. It was at first thought that the route by the River Murray would not be practicable for flocks of sheep, as it proved to be for large cattle, but the adventurous Charles Bonney, subsequently appointed Commissioner of Crown Lands, made the attempt, and succeeded in being the first overlander to introduce sheep into the province, for which feat he was duly honored and banqueted in Adelaide. The overlanders with their live stock, driven down the banks of the River Murray from the back settlements of New South Wales, may certainly be acknowledged as the pioneers and sources of the

wealthy interest which has now, in the year 1883, attained its culmination.

I may now revert to the humble attendants of the lords of the flocks and herds which travelled down the Murray in these early times, since to them South Australia is also much indebted. Though as individuals some of them were desperate characters, there were others who were pouring into South Australia to escape the toils of enforced bondage, and rejoiced in the hopes before them of finding a land of refuge where they could act as free men. They first opened to the settlers the riches of the stringy bark forests, which approached within ten miles of Adelaide. They scaled the ranges with bullock-drays, ascending and descending slopes apparently inaccessible to wheeled carriages. They showed English laborers fresh from the resources of the mother country the way to split the stately trees which furnished posts and rails for fencing, and shingles for roofing purposes. They constructed with the axe and auger miles of post and rail fences. Practised bushmen, they could light fires and cook savory food in the frying-pan alone for kitchen utensils; and they could even make bread without yeast and ovens by burying the leavened dough in the live embers remaining after a great fire of brushwood. The damper, as this loaf was called, was as palatable as the bread produced in any baker's shop. Slab huts of the first farmers and squatters were the result of the practised skill of these accomplished

splitters. The hundreds of miles of fencing which now enclose our wheat fields and garden crops are but the effects of an immigration of overlanders coming down the River Murray in 1837 and 1838, bringing with them the experiences of more than fifty years of toil and struggle in an adjoining British colony. But the labor from New South Wales and Tasmania was not an unmitigated benefit, as might be inferred from my description of its results. It led to much lawlessness and some outrage. This was met with a vigorous arm by Colonel Gawler, who kept the lawless immigration in check by the establishment of a mounted police force, entrusted to Major O'Halloran as commissioner. He was assisted by Inspectors Tolmer and Gordon, who had been trained as cavalry officers, and were eminently qualified for this duty. Under their vigorous and zealous management the police force soon acquired a celebrity which was acknowledged in the neighboring colonies, and assured country settlers of efficient protection in their homesteads. On the recall of Governor Hindmarsh he was succeeded by Mr. Milner Stephen, the acting Colonial Secretary, who governed the province from July 16th, 1838, to October 12th, 1838. At this date Colonel Gawler, a distinguished military officer, arrived in the province as Governor under the Royal Commission.

Colonel George Gawler was an old Waterloo officer, and at the final charge of the Imperial Guard under Marshal Ney, commanded the right company of the

52nd Regiment in the British Army. He was appointed Governor of the colony in succession to Captain Hindmarsh, and arrived on October 12th, 1838. An account of his services in the British Army is given in the *Adelaide Illustrated News*, published in November, 1877, as also statements respecting the biography of our first Surveyor-General, Colonel William Light, who served as lieutenant in the 4th Light Dragoons under Wellington, attached to the Intelligence Department of the army. Colonel Light selected the site for the city of Adelaide, and is therefore connected with the history of South Australia as one of the pioneers. He died on October 5th, 1839, and a monument was erected to his memory over his remains in Light-square. His private friends bore the whole cost of this structure, for he was much beloved by all who know him on account of the suavity of his manner, his gentlemanly deportment and nobility of character. But to return to our principal subject. Captain Charles Sturt, already stamped as an explorer of mark, arrived overland during the period of the *ad interim* administration of Mr. George Milner Stephen, and was appointed Surveyor-General on the resignation of Colonel Light, which took place some months before his death. This appointment was superseded by the Commissioners in London, who appointed Captain Frome, of the Royal Engineers, as the successor of Colonel Light and Mr. Kingston. Captain Sturt, however, subsequently held

appointments in the public service as Treasurer and Registrar-General, and finally as Colonial Secretary, in which office he was confirmed by Her Majesty. He was finally rewarded by the South Australian legislature with a pension of £600 a year for life, in acknowledgment of the claims he had established as the discoverer of the River Murray. Whilst acting as Surveyor-General Captain Sturt, at the instance of Colonel Gawler, offered me the post of Deputy Surveyor-General, which I accepted. But this appointment, like that of Captain Sturt's himself, was set aside in consequence of the arrival of Mr. Burr, who had been appointed in England, when Captain Frome's services were secured as the chief of the department. Other appointments were offered to me in succession; thus at different times I held the offices of Commissioner of Police and Police Magistrate, of Treasurer and Registrar-General, and in January, 1853, I received the appointment of Colonial Secretary, which I continued to hold until the abolition of the office by the Constitution Act in 1856, when being elected one of the members for the city of Adelaide to sit in the House of Assembly, I was sent for by Sir Richard McDonald to form the first Ministry under responsible government, with the title of Chief Secretary. I am not writing my own biography, and shall endeavor to avoid all mention of my own acts and political career as far as I can without interrupting the narrative of historical events; but I have referred to the above

facts to show that as one of the principal official actors in the affairs of the colony during the rule of seven of the first Governors, my knowledge of events entitles me to speak with authority in relating the history of early days, and that I am a competent witness whose narratives may be referred to in the future with safety when South Australia may possess a historian of her own. I have endeavored throughout to keep strictly within the lines of impartiality; how far I may succeed others are better judges than myself. As I have remarked before, I do not think the man is to be found in South Australia who at the present time could write an impartial history of events in a philosophical spirit. The only account I have seen which bears a resemblance to history, is that published by the Government in 1876, and edited by Mr. William Hareus. It is obviously not the work of an independent man, writing without political or religious bias, but, as the title page declares, was published by the authority of the Government, and is therefore not free from the suspicion of being tinged with party views, which every work emanating from a Government is necessarily liable to. The statistical tables are valuable as being true records of the progress of events included in them, and I have not scrupled to use them as faithful chronicles of what they contain. There is enough of the magniloquent and word-painting style to betray the work as an advertisement of the advantages and resources, which the future

critical historian, guided by modern rules of instructing his generation, will scarcely care to notice, but which many a family in the United Kingdom, struggling in the battle of life, will read with avidity. So far the Government aim will have been gained, and it will serve to prompt and encourage emigration from the overcrowded districts of the mother-country. But to return to the main object before me. Before I proceed with a narrative of the government of Colonel Gawler I will venture to illustrate the state of the country on his arrival. I have alluded to the overlanders, who now began to pour their herds and flocks into our territory. There were 6,000 persons in the new settlement according to the statistical returns, whilst 48,040 acres of land had been alienated, of which only eight-six acres were under cultivation; but 480 horses, 2,500 horned cattle, and 28,000 sheep brought down the River Murray were already depasturing in the country. A whaling station had also been established at Encounter Bay by a party from Tasmania.

Among the arrivals by the Murray in one of the overland parties there came a man named Foley—Jack Foley, I believe, he was called. He rode a splendid horse, one of those high-bred upstanding animals which are bred in the pastures of New South Wales. He, and a comrade of similar stamp—they were called bushrangers in those days, and bore the not very enviable repute of being escaped convicts—

took refuge in the scrubby ranges at the back of the point of land opposite Granite Island. Being well armed and provided with good dogs, they supplied the few settlers of Encounter Bay, who were chiefly connected with the whaling party, with fresh meat in the shape of kangaroo flesh. After completing their day's work they retired at night to sleep in the bush, out of reach of troublesome intruders. After a short time the stores of the whaling party ran short, and it became necessary to communicate with Adelaide. Jack Foley was looked for as a messenger well able to cross the country with certainty and dispatch, and he was asked to carry a letter to Mr. Edward Stephens, the manager of the Bank of South Australia, then located on North-terrace. Foley hesitated for some time, knowing that there were police in Adelaide and that they were furnished with a printed "Hue-and-Cry" from New South Wales. He enquired of the sender if he would be safe. He was reassured by the language of the sender, who told him that all was right, honor bright, and Foley started on his dangerous mission, the bearer of a letter betraying him. Arrived in Adelaide, he hooked his horse to the iron rails in front of the Bank of South Australia and presented his missive to the manager, who after perusal of it took him to the kitchen and directed the cook to furnish him with food and treat him well. Foley entered the kitchen, having with him a loaded double-barrelled gun. In the meantime the superintendent

of police, Mr. Inman (son of Professor Inman, of the Naval College), was informed of Foley's whereabouts, and shortly arrived at the bank, when he too was admitted to the kitchen, where Foley and the servant were engaged in conversation. Inman sauntered into the kitchen, and after a little delay approached Foley, and taking up the gun began to examine its merits in the most sportsmanlike way, but rather to the suspicious dismay of the bushranger, who contrived to get near the door, through which he made a rush to his horse, leaving the gun in the hands of the police officer who followed sharply after him, and only succeeded in grasping the bridle of the horse just as Foley was starting. Foley presented a pistol at Inman and drew the trigger of a flint lock. Inman was a powerful young man of tall stature, and was well trained in the art of attack and defence, having been a lancer in the British Legion in foreign service. He seized the pistol at the lock, and thrusting his hand against the flint received a severe cut, but prevented the ignition of the powder in the pan, and wrenched the pistol out of the hand of Foley, who was immediately captured. On being brought before the court of the Resident Magistrate it was found that the Court had no jurisdiction as to offences committed out of the colony. The bushranger was released and acted in the Adelaide police force, where it was assumed that he could be usefully employed to identify men of similar stamp who might have taken refuge

in South Australia. He was subsequently permitted to return to England, and recommended for a free pardon, but of the result I know nothing, though a strange story was circulated, which, as I cannot authenticate, I refrain from now making public. I insert this incident, as I might do many others of a similar character, in some of which I was personally engaged, yet I doubt if history will be advanced by such details, although they might tend to relieve the monotony of my narrative and be acceptable to some classes of readers. But I wish to trace our early institutions, and move attention to the state of society at a period when settlement was beginning to assume a fixed form, and regular Government really for the first time established, for Colonel Gawler in his person united the offices of Governor and Resident Commissioner, and thus extinguished that duality of power which arrayed one set of officers against the other, and one party of colonists against the other. He was indeed an autocrat as far as the law of England permits under the system of government adopted in Crown colonies in all dependencies where representative government either forms no part of the constitution or exercises but a very small share of power. We were drifting into a disorderly state when he arrived, and the convict element in the population, to which I have previously alluded, had become the source of much insecurity and disquietude. Without an efficient police; without a revenue, since the

treasury receipts of 1838 amounted only to £1,448 ; with little or no trade except what might arise from supplying the daily wants of the inhabitants by importation ; and with a growing expenditure, Colonel Gawler had really to found a new colony. All previous action had served to create an immigration fund derived from the sale of land to home speculators and companies, not one penny of which was available for the government of the colony. This error was proved by experience and subsequently remedied by Imperial legislation. The new Governor landed at Glenelg and was escorted to Adelaide by twenty or thirty horsemen, when he took possession of a hut of reeds constructed for him by Captain Hindmarsh and the marines and sailors of the *Buffalo*. In front of that palatial residence, erected on the site of the present Government Domain, he read the commissions appointing him Lieutenant-Governor and Resident Commissioner of Public Lands.

A gleam of hope and exultation now for the first time took the place of irritation and despondency, and the settlers felt that though about to be despotically ruled, they would be ruled by men in the councils of Her Majesty who, whatever the errors of that rule might be in dealing with the Crown colonies, were actuated by a sincere desire to advance the prosperity and happiness of the inhabitants of these dependencies of the empire. The errors, such as they were, were not errors of intention, but proceeded

rather, in the case of the distant possessions in the southern hemisphere, from ignorance of the wants and wishes of the colonists and of the physical capabilities of the countries they had to govern from a distance of nearly 16,000 miles, without those means of communication which modern science and superabundant capital in the mother country have placed at the disposal of Her Majesty's advisers in this year of our Lord, 1883. The laws of cause and effect must be studied before passing judgment upon the acts of individuals, or founding opinions on the course of events in a progressive age. Here we see at once that a divided authority and distance from control, unaided by modern improvements in the communication of orders, placed the resident settlers of South Australia in 1838 in a position of peculiar difficulty and hopelessness. The regulations issued by the Commissioners in London, as published in their third annual report of April 23rd, 1839, look very complete and ingenious on paper, but they involved an amount of complexity and delay which rendered their observance in a new country an impossibility, without an absolute stoppage of all government; and these are the extenuating circumstances with which all the financial proceedings of Governor Gawler must be regarded. He found in the colony he had to govern that the revenue for the year at the close of which he commenced his administration had produced only £1,448, whilst the expenditure had amounted to

£16,580. In the last complete year of his rule the treasury receipts, on account of ordinary revenue, produced £30,618, whilst the expenditure carried to account as actually incurred amounted to no less than £171,430. To sum up the two complete years of his residence in the colony, the Treasurer received, exclusive of land fund, only £50,444, and paid away £267,616, which would imply a deficit of £217,172, a sum sufficient to startle even our more modern Treasurers under responsible and self-government. But then the land sales during the same period came in like a milch cow, and produced £218,881, which completely satisfied the deficiency. Governor Gawler, however, setting aside all regulations and all restrictions provided for his extraordinary expenditure by drafts on the colonisation commissioners and on the Lord of Her Majesty's Treasury. He was clearly not a financier nor a constitutional governor. The bills on the Imperial Treasury were dishonored, but the Parliament ultimately relieved the colony from its embarrassment, and made an arrangement which, while it vested all the lands in the Crown, provided for the liabilities which had been incurred, at the same time placing them to the debit of the colonial Government, which in a very few years by annual payments succeeded in extinguishing the debt, and enabled the colonists of South Australia in November, 1853, to claim and establish their right to self-government in a form as complete as the English constitution when

they passed the first Parliament Bill, which gave place to our present Constitution Act, framed and passed in the Legislative Council, and subsequently ratified by the assent of Her Majesty in 1856.

This Act constituting a legislative body of two chambers, gave full powers by which Responsible Government was effectually secured, and the sovereignty of the people fully established by the grant of universal suffrage in the election of the House of Assembly, which exercises paramount control over the Government of the colony, subject only to those few limitations which all Governments must acknowledge in settlements whose inhabitants claim the privilege of being denizens of the British Empire. I have no intention of criticising the acts of Governor Gawler, but I must bring the events of his rule to a close with a few short observations. Colonel Gawler had been bred a soldier, and had seen how vast operations had been carried on regardless of cost when the destinies of empires were at stake in the Peninsula war; and looking only to what he deemed the most effectual mode of advancing the colony which he was called to rule, he acted as a man of large capital might act who had no other object in view than the improvement of a princely estate, believing his resources to be boundless. He had no military force at his back; the police were few in number, and not organised with a view to the repression of the disorders and outrages which an invasion of immigrants trained in the horrors

of the convict system of a penal settlement was beginning to produce. He therefore strengthened the police force, and added to it the mounted element, which, when the danger had been extinguished, was looked upon as too costly. He explored largely himself, and encouraged others to examine the remotest parts of the colony. Sturt, Eyre, and Stuart in the party of Sturt, penetrated our northern interior, and Eyre accomplished the journey to Swan River, in Western Australia. He employed the superabundant labor which was crowding in to an alarming extent, whilst foreign capital instead of being invested in improvements and cultivation was devoted to land speculation. This becomes apparent when we see that the land sales at the end of 1840, the year of Governor Gawler's great expenditure, had reached the enormous figure of 299,072 acres of which total quantity only 2,503 acres were under cultivation in that year, and 14,600 persons had to be fed and employed, a number much greater than could be absorbed in that trifling cultivation since it gives nearly seven persons to every acre. Later governments have been sorely disturbed, even with a large police force in hand, when assemblages of less than 1,000 unemployed laborers were clamoring for food and work. How alarming then was the position of the Government in 1840, when the unemployed must have amounted to more than double that number. It was the great error of the system which encouraged

the delusion that land and labor must necessarily be productive of prosperity without the association of capital to employ that labor; the early colonists for nearly fifteen years struggled through taxation to pay the costs of their own Government, and give value to land which enriched many an English capitalist who had never contributed a farthing to the public treasury in the colony, except to acquire the lands that furnished the labor, which in some years led to destitution, and has always led to Government expenditure for its support. The feeding of 14,600 persons, which I have before stated as the population of this settlement in 1840, at only £20 a head, would require an expenditure in wages of £292,000. Where did this sum come from since private capital was mostly engaged in land speculation or in the purchase of stock to occupy the waste lands not under survey. It is obvious that the large expenditure of Governor Gawler, in disregard of his instructions, furnished the greater proportion, as that expenditure was incurred chiefly in wages of men employed on survey and other working parties. I am not on this occasion prompted to discuss the merits or demerits of the Wakefield system of colonisation, but I content myself with drawing attention to the fact that it proved a failure and was set aside by an Imperial Act 9th and 10th Victoria, c. 104, which provided that the net proceeds of the sale of lands, after deducting cost of survey and sale, should be available partly for immigration and

partly for public works. Thus a government wages fund was created to support the labor introduced by the immigration fund, independently of taxation or private capital.

This system was liable to many disturbing elements, for it was affected by voluntary immigration, which augmented the population, and by the efforts of occupiers of land to improve these lands. Still it was a great advance in the march of political economy. The land fund, if wisely administered, should only be expended in public works and the introduction of labor, and not in the cost of Government, for the very obvious reason that it is not a certain periodical income, but is liable to constant fluctuations, and ultimately to extinction when lands fit for cultivation can no longer be placed in the market. Governor Gawler did what Imperial legislation afterwards recognised as a valid employment of the land fund; that is, he promoted public works and provided for the maintenance of the labor which every Government is bound to guard against destitution. But in doing so he violated his instructions and paid the penalty in removal from office with all its attendant consequences. Whether he was right or wrong it may be asserted that the colonists of that period and of the present owe him a debt of gratitude for saving the colony from anarchy and for the improvements in its condition which must have resulted from an expenditure not wastefully incurred but spread

amongst the community in the shape of wages for useful purposes. Governor Gawler was impelled by circumstances to act as he did. A vicious system of colonisation, called the Wakefield system, had been adopted by men in England, who attempted to found a settlement in South Australia which should be attractive to capitalists who were land speculators. It escaped their consideration that land and labor without the third element of capital to establish the requisite interaction of land and labor could produce nothing but disaster, and in the scheme they adopted they made no imperative effort to ensure the flow of capital into the new colony to create a wages fund equal to all emergencies. Colonel Gawler's rule will be known in the future distant records of colonisation only by the fact that it led to a more practical system of land legislation to replace the former system of applying all the proceeds of all the lands sold and alienated from the Crown to the introduction of labor. We have not yet discovered the true relation between land, labor, and capital, as is manifest in the latest attempts to give value to our northern areas on a credit system which implies a deficiency of capital in the occupiers.

Captain Grey was but a young man when he entered on the duties of a governor, and without experience in administration. But he was no ordinary man. Distinguished both in the junior and senior departments of the Royal Military College at Sandhurst by

his industry and intellectual ability. He received a commission in the 83rd Regiment of Foot, and when he had attained the rank of captain was employed by the Imperial Government to conduct an exploring expedition on the west coast of the continent. There he learnt lessons of fortitude, of which he stood in full need when he entered on the duties of Governor of South Australia at the period of his appointment. His military education had taught him the value of organisation and the secrets of autocratic rule, and thus he easily mastered his position. He was not quite a stranger to the people or to the physical resources of the province, since he came as a visitor during the rule of Governor Gawler, whom he was so soon to succeed. His keen glance took in the position at once, and he saw that the great mistake of Colonel Gawler in making himself responsible for a large unauthorised expenditure must lead to disastrous consequences to himself and to the colony. He assumed the reins of office under the most difficult and unpopular of all conditions, namely, the necessity of rigid retrenchment and the task of creating a revenue by the imposition of increased duties of Customs. The financial difficulties of the Colonisation Commissioners in having to meet the drafts of Colonel Gawler without funds other than the land fund, which as I have stated could not be used for any other purposes than immigration, led to Imperial legislation. An Act of Parliament, the 5th and 6th of Victoria,

c. 61, provided for the better government of South Australia by abolishing the rule of the Colonisation Commissioners and vesting all power in the Colonial Office placing South Australia on the footing of other Crown colonies. At the same time the debts and liabilities of the province incurred by the dishonor of Governor Gawler's bills on the Imperial Treasury, and by loans which the South Australian commissioners had negotiated at a large discount and rate of interest, were liquidated or guaranteed by the Imperial Government and made a charge on the colonial revenues. Thus Governor Grey's powers were complete, and he was free to make the best financial arrangements by taxation and retrenchment to place the colonial treasury in a safe condition. One of his great difficulties in keeping the expenditure within the limits authorised by the Secretary of State was the employment of surplus labor and the relief of destitution. The immigration of laboring persons, whose passages were chargeable to the land sales fund, had previous to his arrival amounted to 4,791 persons, whilst the statisticial returns give the total population as 14,600 so that nearly 10,000 people have to be accounted for from other sources. The able-bodied amongst the population under the rule of his predecessor had been provided with employment by distant surveys and other public works. Many special surveys were undertaken at a distance from the capital. Thus in Port Lincoln, in Port Victoria on the west coast of

Yorke's Peninsula, at the north-west bend of the River Murray, in the Barossa district, at the Gawler River, Currency Creek, and Wellington on the Murray, and in other localities, survey parties were necessarily employed. A road also had been opened from the capital to Port Victor, passing through Willunga, the great sand basin, and the scrubby district of Mount Jagged in the south. The sources and course of the Onkaparinga and of the Finniss River were traced and laid down on the maps. By such operations the surplus labor in the colony was employed, and a large expenditure necessarily incurred. I have mentioned special surveys, a term which requires explanation in these more modern times. By the first regulations for land sales it had been provided that every person purchasing public lands was restricted to obtaining them in larger areas than 80 acres, in which form they were surveyed, although there was no limit to the number of such sections, as they were called, that might be acquired by a single individual. This system, however, was objected to by men of capital, who desired to possess large estates in a ring boundary, and it obliged them to select their purchases from lands already surveyed. The special survey system was then adopted, under which a person or company paying £4,000 became entitled to 4,000 acres of land without having to compete with other applicants for land who might, under the original plan, select according to the order of application 80-acre sections in the

midst of some discovery of new lands. The special survey regulations met this obstacle to large investments by giving the depositor into the Treasury of £4,000 a right to select his estate in any part of the colony, however distant or remote from the public surveys in progress ; and that his choice might not be fettered in any way he might select his land "in any district even though not previously surveyed." These are the words of the Colonisation Commissioners, quoted from their third report of April 23rd, 1839. In the same report I find that £9,000 had been paid by a society in England for the purpose of establishing secondry towns throughout the colony, in addition to the sums deposited for special surveys. I have already indicated the localities of these and other special survey selections. Labor and horses and draught cattle were costly in those days. With such formidable difficulties to overcome, the expenditure of Colonel Gawler must subsequently have been incurred by some one properly authorised, or there would have been an outcry in England of violated contracts, just as they arose in London with respect to Northern Territory land sales in more recent times. It was all very well to recall him when the work was done, and so relieve the authorities in England who had attempted to regulate these matters from their share in the responsibility. Captain Grey had to meet the consequences of Colonel Gawler's recall, and the consequences produced by a sudden collapse in

expenditure under positive instructions no longer emanating from the Colonisation Commissioners but from Downing-street. I have alluded to one of his greatest difficulties, that of dealing with surplus labor and destitution; and here individual character stood him in good part. He was sorely tried to keep within the limits of authorised expenditure, and not only did he feel his responsibility in that respect, but he had to encounter misrepresentations and unpopularity in every shape. A portion of the press attacked him, and a newspaper then existing called the *Times* was especially virulent and scurrilous in its attacks on the Governor.

When in a civilised community trade is prosperous contentment reigns, and the Government escapes the taunts of the press and the complaints of dissatisfied individuals, for hope relieves their struggling exertions. This happy condition of the body politic is the usual result in free colonies of a great expenditure in public works of improvement or other necessary requirements, provided always that this expenditure is legitimately authorised and legitimately maintained without undue strain on the public resources. When this is the case a community so governed is on the high road to increased wealth and progress. Fixed property increases in value, and the wages of labor are sufficient to encourage frugality and saving, and reduce destitution to a minimum; for there will always be destitution in the best regulated govern-

ments and in the wealthiest communities, since age and bodily infirmities amongst the dependent classes and reckless conduct are invariable conditions of civilisation. On the other hand, when the profits of trade are uncertain and fluctuating, the money market becomes, in the language of the Exchange, tight; local capitalists increase their rates of interest to the borrower, and governments are reduced to the expedients of increasing taxation or working with foreign capital if their credit is good and they find it necessary to prosecute public works at all. Wages become low from diminished employment, and destitution is on the increase. Hence the tone of public opinion is against the Government; the press echoes the prevailing sentiment; it fiercely and remorselessly assails the ruling powers, and the language of discontent and irritation find vent in public meetings and reproachful words by public bodies and individual sufferers. This last state of things represents to some extent the condition of South Australia during the period of Governor Grey's administration from 1841 till near its close in 1845, when the wisdom and necessities of his rule were appreciated, and with well balanced revenues and expenditure trade began to revive. It must be stated that the dishonor of Governor Gawler's bills on England had led to many insolvencies and a great depression in trade operations. It was thus that in the commencement of his career Governor Grey had to encounter the shock of the attacks of the press

conducted in no measured language, as well as the universal reprobation which was made to attach to him personally, although he was but the instrument in obeying instruction that required a firmness of character and administrative experience which he readily acquired. He had imbibed useful lessons of fortitude in his western explorations, and this quality, too, was needed in enabling him to overcome the difficulties of his position. Ultimately before he quitted the reins of Government on October 27th, 1845, he not only nearly equalised the revenue and expenditure, but at the same time considerably reduced the public debt. In 1842, the second year of his rule, when the colony was suffering under its greatest depression from anterior causes, the total import and export trade was only £225,597, being still on the descending scale. But when he left they made up a total of £333,278. This seems to justify the inference that trade transactions must have multiplied considerably during his rule, and when we find that the lands under cultivation in the year of his arrival increased from 6,722 acres to 26,218 acres; and when we learn, moreover, that the total trade of the year 1845, amounting, as I have just stated to £333,278, involved exports of colonial produce to the value of £131,800, we must be prepared to admit that a great advance had been made in trade, and in staple production, the best index of prosperity. Lastly, it must be noted that these results were due to a population in

the year 1845 of 21,759 persons. Population had never ceased to flow in, and continued to increase in every year until the present date. I am unable to place on record the exact state of our public debt on the arrival of Major Robe, the successor of Governor Grey, not having with me the financial returns of that period. It would be a very incomplete history of the administration of Governor Grey if I were to omit all reference to his legislative measures, since they will serve to point out the evils and grievances to be remedied.

The legislative functions of the Colonial Government from June 15th, 1843, until February 21st, in the year 1851, were entrusted to a Council of eight persons, four of whom, including the Governor, were Government paid officials, and four nominated from independent colonists and appointed by the Governor without remuneration, the Governor himself presiding at every meeting of this Council, and having a casting vote in case of equality of opinions. Thus no measure could be passed in opposition to his policy, which the official members were bound to support. Hence the individual character of the Governor under that system had some influence in shaping the course of events, however much these events might be forced on him by surrounding circumstances and the march of public opinion; for the most despotic of rulers are sometimes directly and often imperceptibly obliged to have regard to the opinions of those whose weal or woe is

influenced by their social and political action. There were some changes in the personnel of Captain Grey's Legislative Council, but in 1843, the mean date of his administration, his official advisers were:—Alfred Miller Mundy, Colonial Secretary; William Smillie, Advocate-General; Charles Sturt, Registrar-General; and at the same date the non-official nominee members consisted of Major Thomas Shulldham O'Halloran, Jacob Hagen, John Morphett, and George Frederick Dashwood, R.N. The clerk of the Council was Captain W. L. O'Halloran. With the Council so constituted, Governor Grey being president, and having a casting vote, passed during his administration eighty-seven legislative enactments, showing no small amount of mental activity. Very few of these ordinances remain now as the law of the land; yet some of them were of an important nature, serving the purposes of raising a revenue and affecting the administration of justice. Captain Grey was promoted to the government of New Zealand at a time when disputes and conflicts were rife there between the Maories and Europeans, owing chiefly to land disputes. His knowledge of the land system in Australia, and his acquaintance with the habits and customs of the native races, together with his now proved administrative ability, pointed him out as a suitable governor for that distracted settlement.

Lieutenant-Colonel Frederick Holt Robe succeeded Captain Grey as Governor of South Australia, a post

which he surrendered at his own request on August 2nd, 1848. His rule embraced a period of less than three years, and will form the closing matter of this chapter, after which I shall, before concluding my historical sketch, give some account of the colony under Governors Young and MacDonnell, and probably devote an entire chapter to the phenomena that accompanied the discovery of gold in the neighboring colonies of New South Wales and Victoria, the effect of which in promoting the progress of South Australia required and received the earnest attention of Sir Henry Young, and culminated in the Bullion Act, No. 1, of 1852, a measure framed to meet a crisis unexampled in modern colonial history, and which, although opposed to strict views of political economy and deemed to trench somewhat on the Governor's instructions, was a great success, and thereby insured its acceptance both at home and in the colony. Major Robe—for on his arrival he had not attained his superior rank—was undoubtedly unpopular. He was a blunt honest soldier, not prepossessing in his manner, but under this exterior he possessed a warm and amiable nature, and real ability in the requirements of his profession, though he was not versed in the arts of persuasion and oratory, and had studied little the march of liberal opinions in civil government. He was at the same time a high churchman, and took no pains to conceal it or to conciliate the nonconformists, as Governor Grey had done. This alone created a

prejudice against him in a colony which a popular nonconformist minister has described as the paradise of dissent. Church and State were certainly words no longer applicable in South Australia, since it was the aim of the promoters of its settlement, and has since been zealously maintained, both socially and politically, that no church or denominational ascendancy in government or legislation should be permitted. In the Act of Parliament by which the colonisation of South Australia was authorised, power was given, amongst other provisions, to appoint officers, chaplains, and clergymen of the Church of England or Scotland; and in accordance with this enactment the Rev. Charles Beaumont Howard was appointed first colonial chaplain when the expedition to colonise South Australia left the shores of England. He died, and was succeeded by the Rev. Mr. Farrell, but on his death the office was abolished by the Legislature, never to be again revived. Major Robe, who as I have stated, was a staunch churchman, felt it his duty, in furtherance of the royal instructions, to promote religion and education in the colony he was appointed to govern. He was strictly religious himself; and the Church of England being by law, as he conceived, the State church, he made grants of land to serve as endowments to its clergy. But he at the same time was equally just to nonconformist congregations, and they also were offered a share in this distribution of land. To carry out this policy with his nominee Council

and casting vote, he passed an ordinance "to promote the building of churches and chapels for Christian worship, and to provide for the maintenance of ministers of the Christian religion." He also, not unmindful of his instructions to provide for the education of the people, passed another ordinance "for the encouragement of public education." Altogether his legislative enactments numbered forty-two ordinances; amongst these was an ordinance to establish a savings bank. Thus, although represented as despotic in the frequent use of his casting vote, he showed a just regard for the moral and intellectual welfare of the small population he had to govern, which in 1847 only numbered 31,153 souls. The dissenters, under which term may be included all persons not professing church views, were numerous in the colony, and active in their opposition to the Government, incited probably by Governor Robe's legislation on the subject of religious endowments, which if engrafted on the religious system of the colony would virtually have brought the ministers of all religious bodies under the control of the Government. This, as the religious history of the mother country shows, has ever been opposed by the dissenting clergy and could never be tolerated in a community professing the principles of civil and religious freedom, which were, and are now, the boast of all classes in South Australia. It is to be hoped that the immense influence given to the clergy by the fusion of all

religious distinctions in one general regard for the welfare and happiness of all classes in the State will tend to the extended furtherance of social morality rather than to their predominance in regulating the civil institutions of the country, which would revive under another form that spiritual domination, useful, perhaps, in the barbarous times of the middle ages, but which, from the area of the Crusaders down to the 19th century, impeded rather than propelled the impetus of knowledge and scientific discoveries in forming a healthy public opinion, as it now exists intent upon promoting progress and happiness. Colonel Robe sought these ends as his legislative ordinances show. I have cited those in which he sought to promote religion and knowledge, to which must be added the first institution of a savings bank and his measure to regulate the post-office and introduce uniformity of charge after the principle established in England by Mr. Rowland Hill. To impute to him that "he tried to govern by a small clique of men who had but little sympathy with the bulk of the colonists" is simply to charge him to his disadvantage with being the governor of a Crown colony in which all legislative power was by law confined to a Council of eight members and all executive control to his Executive Council of three. Outside of these authorised and constitutional advisers, it is in vain that we search the public records or the columns of the daily press for information which,

coming from the Rev. William Marcus, in the shape of history, should have been authenticated by him to escape the implications of prejudice and party bias. The rule of Governor Robe must now be brought to a close. His personal character in urging his High Church principles left its impress on more modern times in the determined stand against them which all the various religious bodies have actively or passively urged or assisted to maintain since. It has thus through his unintentional agency become an accepted principle in the government of South Australia that no religious denomination shall claim precedence in connection with the State.



CHAPTER II.

Arrival of Sir Henry Young, Kt., as Governor—Liberal views of the Governor and of the Government in England—Grievances of the colonists arising out of the action of the late Governor, Colonel Robe, with respect to Royalties on Minerals—Sir Henry Young supports the prayer of their petition—Effect of the gold discoveries in 1851—District Councils—Exodus of the population to the gold-fields of Victoria—The Bullion Act and Escort Service operate to cause the return of the diggers—Depressed condition of South Australia remedied by the Bullion Act—Proofs of the condition of South Australia in justification of the Bullion Act—Gold discovered near Adelaide—An Assay Office and Mint established to coin gold tokens—The Railway system introduced—The Education Act No. 20 of 1851 passed—Undenominational religious teaching to be paid for by the State—Bishop Short's Pastoral Address—He complains that the teaching in public schools, if theistic, is not Christian.

SIR Henry Edward Fox Young succeeded Lieutenant-Colonel Frederick Holt Robe in the Government of the colony of South Australia on August 2nd, 1848. His rule, even if we only mention the most important events which will leave their impress on a distant posterity, was certainly a remarkable one, and cannot be passed over by any historian without associating his name with those events. For although he, in common with all rulers of embryo nations, was moved in his political action by forces the result of foregone circumstances which in the natural course of development would have had their play through other agencies if he had never been called to

the post he occupied ; yet his individual character assisted largely in that development, as a man able to understand his responsibilities, and indentify himself with the wishes and interests of those he was appointed to govern. The great measures with which his name will be mentioned in the history of South Australia were the decentralisation of the powers of government by the institution of district councils, the inauguration of the locomotive railway system, the establishment of the first electric telegraph, the opening of the navigation of the River Murray for steamers of light draught of water, the Bullion Act, the introduction of representative government through election by the people. These are measures which I shall attempt to analyse in their proper order, but before doing so it becomes me to advert to the physical and moral causes operating in the mother country, and indeed throughout all Europe, which had their share in forming the opinions of Sir Henry Young and in shaping the events that determined the destiny of South Australia, as well as of the Australian colonies generally. Thus there will appear to have been a clear connection between the phenomena passing in the colonies and their distance causes in England. I allude especially to the change of public opinion in the mother country in favor of liberal councils which had begun to influence the action and views of Her Majesty's Ministers, and indeed of all public men. Its original impulses are well known to the readers of history, and I need

not dilate on them here. But this change of public opinion reacted on these colonies in the shape of a more liberal development of self-government, at first through the instructions of the Secretaries of State, and then through the views and acts of the several Governors. Sir Henry Young arrived largely imbued with liberal sentiments, and may be described as a thorough friend to free institutions, as will be seen when I advert to his administrative career in more detail. He had necessarily learnt the mysteries of government in the office of Colonial Secretary, from which he had been promoted to that of Governor of a colony; and he was indefatigable in discharging the duties of a Governor in a Crown colony where all the power and responsibility devolved on him. All correspondence passed through his Colonial Secretary to him, and all letters and instructions ran in his name. The functions now performed by Governor, Ministry, and departments, centered in him as the autocrat of a Crown colony. He could use the advice of his Executive Council, but he was not bound to follow it, and he himself was bound to follow out the policy of the Home Government, just as his Executive Councillors were bound to follow out his policy. Now, as I have said, a great change had come over public opinion in England; for a generation was yet living that had learnt wisdom and toleration through the public press, which had placed before the masses, in full, the debates on the Reform Bill and on Catholic

Emancipation. These measures and others of a similar liberal stamp had left their impress on the minds of the statesmen who instructed our colonial governors, and they had helped to train the thoughts of Sir Henry Young before he assumed the reins of government in South Australia. Twice during his comparatively long term of office, which, ending at the close of 1854, had extended over nearly six years and a half he had the privilege of preparing the colony for the complete measure of self-government we now enjoy under our new Constitution Act, which came into full operation on October 24th, 1856. Under royal instructions, gazetted June 15th, 1843, the Legislative Council, presided over by the Governor, had been composed of eight members, including the Governor and three paid officials of the Crown, with whom were also associated for the first time four unpaid and independent colonists, selected and appointed by the Governor, but understood to represent the wealth and intelligence of the community. This, though but a small step in advance towards self-government, foreshadowed more complete concessions by the Home Government, designed to include the principle of election by the colonists themselves, and it superseded the autocratic form of government by an absolute Governor, assisted, not controlled, by his Executive Council, who acted in the double capacity of an executive and legislative body. But now we have to record a totally new

principle admitted into colonial government, at least as regards the Australian colonies. An Act of Parliament (13 and 14 Vict. c. 59) enlarged the powers of the Secretary of State, and under instructions Sir Henry Young, on February 21st, 1851, passed an ordinance through his nominated Council constituting a Legislative Council, to be composed of twenty-four members instead of eight as heretofore, of whom eight were to be nominated by the Crown and sixteen members were to be elected by electoral bodies. And this was by no means a final measure of reform. It was followed in 1853 by a more complete measure of self-government, introduced on the invitation and suggestion of Sir John Parkington, Her Majesty's Secretary of State for the Colonies in that year. This Bill, however, not being confirmed by Her Majesty, was superseded by our present Constitution Act already alluded to. But I must not involve my narrative by proceeding further with these constitutional questions, to be reserved for a later period of the rule of Sir Henry Young.

Immediately on his landing, the new Governor was met by a deputation, who presented him with a memorial addressed to himself, and at the same time placed in his hands a humble petition to the Queen for transmission to Her Most Gracious Majesty. The memorial and petition both contained statements of grievances arising out of the action of Colonel Robe, the late Governor, under instructions from Lord

Stanley, at that time Secretary of State for the Colonies. The question will be best understood by quoting the last two paragraphs of the memorial, in which it is stated :—"That' your memorialists respectfully represent that your Excellency's predecessor has taken various proceedings in reference to a tax or reservation of royalties on certain mineral lands of this province; and in particular in the issuing of grants of these lands containing reservations and provisions not authorised by law. That your memorialists respectfully trust that your Excellency will take such means as may appear to your Excellency as requisite to relieve your memorialists from the difficulties in which they have been placed in consequence of the informalities of the land grants referred to." The nature of the contest to which Colonel Robe had been committed through the instructions of Lord Stanley communicated to him in a despatch dated Downing Street, September 18th, 1846, will be found published and reported in detail in the *South Australian Gazette and Mining Journal* of August 10th, 1848. To this paper I refer the curious, but as after the lapse of so many years it may not be obtainable except in libraries it becomes necessary for me to state the principle occurrences because Sir Henry Young had to meet this question immediately on his arrival, and his course of action bears out the views I have expressed on the point of his liberal tendencies and of the great changes taking place in public opinion in

England—changes which, however had not been recognised by Lord Stanley at that time, although there can be no doubt of their silent operations upon the minds of many statesmen. Lord Stanley had to meet in Parliament the complicated questions which the unauthorised expenditure and the financial proceedings of Governor Gawler had given rise to. With this object in view he introduced a Bill into Parliament under the title of an Act to amend an Act for regulating the sale of waste lands belonging to the Crown in the Australian colonies, and to make further provisions for the management thereof. The Act sought to be amended was 5 and 6 Vic., c. 36, under which a uniform system of disposing of the waste lands had been adopted. The amendment, amongst other provisions, sought to legalise the levying of a royalty on all mineral lands purchased thenceforward; but meeting with serious opposition that Bill was withdrawn. Lord Stanley then sought to carry his point by directing the Governor of South Australia, who at that time happened to be Colonel Robe, to issue regulations “with the aid of the Executive Council” establishing the right of the Crown to grant lands not in fee simple as formerly, but reserving the right to claim a royalty on all minerals worked on such lands. (See his despatch dated from Downing-street, September 18th, 1845.) Colonel Robe deemed that the best way to effect the desired object would be by the issue of rules and regulations to be inserted in the

form of future land grants, whereby the reservation of royalties of one-fifteenth of the produce of all mines worked was provided. These rules were framed and approved in Executive Council, then consisting of Alfred Miller Mendy, Colonial Secretary; William Smillie, Advocate General; J. W. Macdonald, Treasurer; and the Lieutenant-Governor. The moment this document was published a burst of indignation followed; and on April 21st ensuing, a public meeting chiefly of mercantile men, was held to protest against the rules and regulations which were to take effect from March 3rd, 1846. A petition to the Queen was prepared to be presented to Her Majesty, not through the Governor or the Secretary of State, but by the "South Australian Society" in England. I am unable to relate the fate of this petition; but on September 30th following; Governor Robe sought to give validity to the obnoxious regulations by obtaining the consent of the Legislative Council. This Bill passed the second reading by the casting vote of the Governor, presiding; but was prevented from becoming law by the withdrawal of the four non-officials members from the chamber, who rose from their seats and left the Council at this stage of the proceedings. At the next meeting of the Legislative Council, held on October 9th, the Governor withdrew the obnoxious Bill, and after some delay for consideration resolved to collect the royalties by force of law proceedings on certain lands sold under the

new regulations; and accordingly after a short correspondence with the proprietors a Bill in Chancery in November, 1847, was filed in the court of Mr. Justice Cooper, the only judge. After a careful hearing of argument the information was dismissed on July 28th, 1848, the case having been brought forward on July 12th. This action, however, in the Supreme Court seems not to have been attempted until Colonel Robe had obtained the confirmation of Her Majesty to the regulations of March 3rd, which confirmation was communicated to Colonel Robe in a despatch from Earl Grey on December 30th, 1846, and made known to the colonists on May 6th following. Earl Grey had then succeeded Lord Stanley as Secretary for the Colonies.

This long digression is necessary in order to explain the course of action which had led a deputation of the colonists to place in the hands of Sir H. E. Young immediately on his arrival, a petition to the Queen containing a request for redress of grievances, and to appeal to the new Governor for his aid and protection. Sir Henry Young no doubt put the Secretary of State in possession of full information, as may be inferred from the fact that he met the grievances of the purchasers of mineral lands by introducing and passing an ordinance through the Legislative Council (No. 7 of 1849), which became law on August 14th of that year with the sanction of Her Majesty's Minister for the Colonies. I have not thought it

necessary to search through the correspondence between the Governor and Earl Grey, the Secretary of State, because it is highly improbable that Sir Henry Young would have acted in opposition to the wishes and instructions of Lord Stanley without a further reference home, stating the new circumstances that had arisen since those instructions had been acted on by Governor Robe. And it is obvious that he must have supported the prayer of the petition to the Queen, since we find the ordinance granting a full measure of relief was approved by the Crown. All the proceedings which I have just related arose out of the circumstances connected with Governor Gawler's administration which had proved the inadequacy of the South Australian system of land sales and Government to promote a prosperous and healthy condition of affairs in the new colony. It had resulted in bringing on prominently the reconsideration of the system, not only in South Australia, but also as regarded the neighboring colonies. The royalties question was brought before the Imperial Parliament, and it had been proposed to include all the Australian colonies within the scope of the regulations to be issued under the authority of fresh legislation. The failure, both in England and in the colony, to carry this obnoxious tax into effect, together with the misgovernment resulting from the constant interference of the Downing-street authorities, felt also in New South Wales, aroused a spirit of independence in the region

of politics and religion ; for Colonel Robe's attempts to legislate in matters of religion, and bring the clergy of all denominations into subserviency to the State by the policy of State aid to religion, had mixed up religion with the question. In England more liberal sentiments had already taken hold of public opinion, so that a new era was preparing, ushered in by a steady advance in view of civil and religious freedom amongst the masses. The colonists yearned for self-government to secure their political rights ; and they were so alarmed at the prospects of a State religious establishment that a feeling grew up to exclude ministers of religion from all share in politics, to which effect was given when the Imperial authorities, themselves in perplexity under the extraordinary circumstance arising out of the copper and gold discoveries then foreshadowed, subsequently surrendered to the colonists the complete management of their own revenues and all the prerogative rights of the Crown, except the power of disallowance of Acts of the local legislatures, the last symbol of sovereignty. We shall see in the course of my narrative how by this wise concession all grievances were at once set at rest, and such of the colonial dependencies as were made partakers of the boon of self-government were knit together in love and loyalty to the mother country, ready to hold out the hand for equal friendship, and even to assist her in difficulties by open expression of sympathy, and ready to bear their part in the exigencies of war and self-

defence, on this condition only, that they themselves must judge of the fitting time and mode of action. We shall now be better prepared to judge of the administrative policy of Sir Henry Young, and to understand how public opinion, gradually formed by events, reacted on our rulers in enabling them to steer the colonists through the perplexities caused by the gold discoveries, and eventually to carry through an enlarged and partly elective Legislative Council the complete Constitution Act, which is the Charter of our liberties.

The foregoing preliminary remarks have, I hope, prepared the reader for the events which belong to the period during which Sir H. E. F. Young governed this colony. Moral effects resulting in a change of public opinion, both in England and here, were acting in favor of the political phenomena. I have now to notice a great advance in the science of government which was effected by the adoption of district councils into a share of political administration, in other words by the decentralisation of the powers of government. It may be likened to the change that had taken place in the religious world when the dissemination of truth in spiritual and moral matters had, by several acts of toleration, been recognised as not solely dependent on the union of authority in a State church. The Christianity of the Bible was now being taught by other religious bodies outside the Established Church, and the moral emotions of the masses were thereby allowed

fuller play. The repressive system in religion had failed as it had done in politics, and the consequence was that the central influence of the hierarchy becoming diffused among a number of independent sects acted with more vigor from the new centres. The advance in political freedom, for which the period now under consideration was remarkable in our colonial history, was not due to any one Governor or to any one statesmen, but to the general march of intellect. In New South Wales, as the older and more important colony, the want of some local authority in distant settlements to advise and manage public improvements, for which the Land Sales Acts provided the funds, had for some time become apparent to Colonial Ministers. They had lately acquired control over the land fund by an amending Act ; and since one-half of the net proceeds of land sales was devoted to work of utility and it was not desirable that this expenditure should be regulated by the central government, who would be naturally prone to improve the Capital and surrounding district to the neglect of the interests of the outlying country, the Secretary of State devised a system by which local bodies should exercise a share in the use of the land fund. I will not attempt to trace with whom the system originated. Probably several minds had thought the matter over, for we find the subject of district councils examined at great length in several despatches from Secretaries for the colonies to the Governors of New South Wales. I

shall only quote passages in the Colonial Office correspondence of the year 1850, because at that date Sir Henry Young was our Governor. On August 30th, 1850, Earl Grey happened to be the Secretary of State for the colonies, and in forwarding to Sir Charles Fitzroy, Governor of New South Wales, the Imperial Act (13 x 14 Vict. c 59), "an Act for the better government of Her Majesty's Australian Colonies," which was the Charter under which we were enabled to prepare and pass our Constitution Act, he incidentally gives expression to views that bear out the statements I have made as to the connection between events in Europe and the more liberal sentiments prevailing as to the government of the British colonies. Thus he observes in the 7th paragraph of his despatch—"These are the views which my observation of public affairs, and especially of the course of events in Europe of late years, would lead me to impress on you; they are those of one deeply anxious for the continuance of that advance in material and moral prosperity of which the Australian colonies have on the whole exhibited so striking an example; but like all general views they must be received subject to the exigencies of times and events." In the 18th paragraph "with regard to the land revenue, I am aware," he proceeds, "that much jealousy has existed of its being appropriated, as it hitherto has been, by the authority of the Crown, and it is therefore necessary that I should explain that though the Act of Parliament, which I

now transmit to you, makes no alteration in the existing law upon the subject, Her Majesty's government have no desire to exercise any control over the appropriation of this revenue beyond that which is necessary in order to insure its being expended on the objects to which it is legitimately applicable, and in a manner consistent with justice towards those from whom it is raised." He subsequently observes—"Such proportion of the revenue as is not required for immigration ought as far as possible to be applied in local improvements in the districts in which it arises." A despatch to Sir William Denison of July 27, 1850, gives his views more at length on the application of the land fund. Earl Grey, in arguing against the policy of selling waste lands at a price, instead of parcelling them out in free grants, observes — "But as the object of imposing such a price is to insure the gradual distribution of land to settlers as it is wanted, it has always been my opinion that the sums received for it should be applied in such a manner as to add to the value of the land to purchasers who mean really to occupy and improve it. The popular objections to the comparatively high price which has for some years been required for the Crown lands in the Australian colonies, would in my judgment be well founded; and it would be highly inpolitic to withdraw from settlers so much of their available capital, if this money were not in fact restored to them by its being applied

in such a manner as to increase the value of the land they acquire." I learn further from the despatch of Earl Grey that the committee of Privy Council on the proposed constitution of the Australian colonies had advised that "whenever local bodies are constituted representing the inhabitants of the different districts, the application of half the land fund to objects of this kind should take place under their superintendence" (the objects being public improvements of the nature of roads, streets, and bridges). The lesson to be gathered from the despatches, parts of which I have just quoted, are that the Home Government had arrived at the conclusion that it was desirable to raise up in the districts local bodies, to whom should be entrusted the direction and management of the land fund produced by sales of land in those districts, in order to guard against its expenditure in the neighborhood of the capital, where naturally the greatest pressure would be brought to bear on the central government to secure the outlay for improvements in the vicinity of the seat of government for the benefit of the larger population to the neglect of distant interests. This policy became the more urgent whilst a system of more complete self-government was on the eve of being inaugurated, in order that the weaker administrative bodies in the districts and municipalities apart from the capital, might have their legitimate influence in shaping the public opinion, on which the principles of the Constitution Act would be based.

A spirit of independence had already been aroused in South Australia by the attempts of Governor Robe to legislate for the collection of royalties on minerals, and also in matters of religion. His administrative proceedings, however, though they made him the subject of much odium and unpopularity, tended to the benefit of others, firstly by awaking men to a sense of their political rights, and next by moving the Home authorities to reconsider the subject of the land revenues in the Australian colonies generally, at a time when the gold discoveries had increased the importance of these colonies, and rendered it obvious that it was impossible to rule such distant possessions from Downing-street when emergencies might arise requiring immediate action. It must be recollected, the average duration of the voyage by the mail ships from England to Adelaide was, even so late as the year 1857, nearly sixty-six days, whilst at the period under consideration it was much longer. These circumstances taken together afford a sufficient explanation of the liberal views which were beginning to work towards the independence of colonies which prior to the opening of the Suez route were practically at a distance from the seat of rule of nearly 16,000 miles. Physical causes then, in themselves, separately, uncontrollable, produced moral effects which, acting on many different minds, brought experiences into play that resulted in complete political freedom through the instrumentality of Sir Henry Young and his advisers,

who were guided by public opinion. It will be remarked that I am attributing to the period covered by the rule of Sir Henry Young those changes which ultimately, and under the government of his successor Sir Richard MacDonnel, resulted in giving us our Constitution Act of 1856. But it will also be seen that all the principles of self-government embodied in that Act were amply discussed and prepared in 1853, when the public opinion that afterwards really controlled the legislative action of Sir Richard MacDonnel was fully and irresistibly formed. I must now revert to the subject of district councils established by Sir Henry Young in 1852, viz., "An Act to appoint district councils and to define the powers thereof," passed on November 25th of that year. It cannot be too forcibly brought to notice that local self-government contains the germ of the political strength of a nation and is a necessary factor in the stability of free states. District councils, as they are established in this colony, are but incipient stages of a more perfect organisation, which time and enlarged population will produce. They certainly by their adoption relieved the central government of much odium, responsibility and administrative work. It would have been impossible to manage the expenditure required under the head of roads, streets, and bridges, to which the Crown moiety, as it was called of the land sales fund was applicable without local advice and assistance, so as to avoid the reality or at least the imputation of

favoritism and corruption. Local taxation, which was included in the powers given to the local bodies and was eventually to supply the place of the subsidies from the general revenues, could not have been resorted to without the intervention of local elective bodies and absolute local self-control. It would have been invidious if not absolutely unconstitutional to have taxed a particular district for the erection of a bridge or any other requisite public building, whereas there could be no objection to leave it in the power of a properly-constituted district authority to tax themselves for such purpose when the benefit would be chiefly local. It is on this principle that all municipal government should be founded, and when the power to tax for local improvements is never conferred except on the application of the residents themselves, and when moreover a limit to taxation is assigned by the supreme legislature, the liberty of the subject and the rights of property are safely provided for. The experience of the mother-country pointed to the wisdom of such a delegation of power and also suggested the mode of its accomplishment. The machinery of government by this system of the division of moral labor and responsibility becomes more complicated, but at the same time more perfect. In factories the division of labor produces great results. In a military body the division of labor is brought into practice by the formation of companies to form the units of a regiment,

and the appointment of special officers to govern each small body strengthens the general cohesion, and renders it more flexible. The study of the operations of nature has taught us that simplicity of structure in the organic world is concurrent with imperfect functions, whilst the higher grades of existence are always accompanied with and accomplished by complexity of structure. So we find in political arrangements that a government in which all power is vested in a single individual, who is thus necessarily an autocrat and a despot—and this is manifestly the simplest of all forms of government—is liable to sudden revolutions and anarchy, as in Russia, Turkey, and even until lately in France. In such case a State may be destroyed by the issue of a single battle when its sovereign is led into a war. In England and America on the other hand, where the functions of government are dependent on the co-operation of many distinct political forces, the sovereign or ruling head may die, the executive government of the central authority may resign or perish in some great catastrophe, the Parliament itself may be rudely dissolved; and yet the wheels of the State machinery will not cease to act. Such a state of things might come to pass in the midst of a foreign war; it might happen in the midst of civil war and domestic troubles, and yet the English people as a body politic would still continue to exist, the relation of society would still be maintained, and the various political

bodies would still cohere to sustain and uphold the energies of the nation.

It may be said that I am travelling far from my subject, but I am not desirous of writing history as a mere compiler of events without showing their interdependent relations; and it will be seen in the course of my sketch that I am but marking the stages of progress in government as they have really occurred in South Australia, a proper understanding of which is complementary to the political era which I am approaching, namely, the possession of complete self-governing powers all but attained in the year succeeding the establishment of a certain measure of local self-government, when Sir Henry Young, in the year 1853, succeeded with the aid of a legislative body of whom two-thirds were elected members in passing the Parliament Bill. The influence of public opinion was overweighted on that occasion by what was presumed to be a condition imposed by the Imperial Government, represented at that time by Sir John Pakington, Secretary of State for the Colonies. But although then overweighted and overborne, public opinion was ripe for greater concessions and resolved to obtain them. It will also be seen that the colonists of South Australia reinforced by constant arrivals from England of men imbued with the reforming spirit of the age, and themselves accustomed to the working of free institutions, were found fit to enjoy and appreciate that complete form of political organisation which we

now possess. Free institutions and self-government can only be understood and appreciated by a law-abiding people, who respect and obey the law in the full consciousness that bad laws are better than anarchy and violence, since bad laws can be speedily amended or repealed when the sovereign power is in the hands of the people themselves, without resorting to extreme courses. In illustration, I may mention that in the year 1852 Sir Henry Young assembled the Legislative Council for a single session of a single day, and passed the Bullion Act through all its stages and made it law by giving it his sanction on behalf of Her Majesty, when the delay of a day might have been fatal to some leading commercial firms. In like manner in the year 1883, Mr. Gladstone, the Premier of England, passed the "Explosives Bill" through both Houses of Parliament in one day, April 9th, and it became law at noon the next day, when it received the Royal assent. Thus, notwithstanding the complexity of the machinery of Government in England to which I have before alluded, its perfection is shown by the ease and suddenness with which in special emergencies all its powers can be brought to a focus and give immediate effect to the will of the people; for unless both Houses of Parliament had felt certain of the pressure from without it would have been impossible to obtain unanimity of action. At this stage of my historical sketch it may be well to strengthen my position by remarking that to seek to

change opinions by laws is worse than futile. It not only fails, but it causes a reaction which leaves the opinions stronger than ever. First alter the opinion and then you may alter the law. Very little reliance can be placed on reforms which instead of being suggested by the people are bestowed on them by the political classes. In the somewhat lengthened account I have given of the motives which prevailed in bringing about the establishment of district councils, I have departed from the chronological order of events since the "Act to appoint District Councils and to define the powers thereof" became law on November 25th, 1852, several months after the passing of the Bullion Act. But I was desirous of showing the changes in public opinion in England and the counsels of Her Majesty's Ministers, which, reacting in South Australia, enabled Sir Henry Young to throw himself into the scale of colonial interests when he introduced and sanctioned that Act in the name of Her Majesty; although had he regarded the question from a strictly Imperial point of view, he might have felt it his duty to reserve the Bill for the Royal assent. To proceed now with the history of that famous Act, which is probably forgotten by the colonists, although there can be no doubt that to its successful operation they owe the sound basis and prosperous condition of their industrial and commercial interests at the present time.

I find that our mineral resources began to attract notice as early as the year 1843, when the first copper

ore was discovered at Kapunda, a district some fifty miles north of Adelaide. Two years later a rich deposit of the same metal was discovered at a distance of one hundred miles in the same direction, and was worked as the celebrated Burra Burra Mine. The land on which these mines are situated was soon purchased under the special survey system of which I have previously given an account. It was in consequence of these discoveries, and of other indications of mineral deposits, that the royalties question gave rise to correspondence between Governor Grey, Governor Robe, and the Colonial Office in England ; the home Government contending that certain dues called royalties were leviable by the Crown on the ores raised from lands sold in South Australia. The result of this claim I have given in the preceding chapter. It is not part of my plan to give the details of the effects on our resources and revenues produced by the export of copper ore, but it will elucidate my subject to state that in the year 1851, the period in which the gold discoveries in the colonies of Victoria and New South Wales began to operate on the industries and political position of South Australia, the export of minerals, chiefly copper, amounted to £310,916 ; and in the next year to £374,778. But the discovery of our copper deposits had no disturbing effect on our colonial industries. On the contrary, they advanced wages and profits and augmented our population through increased land sales, which furnished the funds for the importation of

labor. The gold discoveries, however, in New South Wales, in 1851, and subsequently the still richer deposits in the province of Victoria, produced a rush of the population of South Australia to the diggings, as the goldfields were called, causing the absolute stoppage of all farming operations and of all trades and manufacturing industries. Gold had been discovered in South Australia many years before, but it had not been worked in profitable quantities, and it was afterwards found at Echunga, as stated by the Colonial Secretary in a report dated August 25th, 1852, which will be subsequently referred to. In New South Wales, which at that time promised to be the greatest gold-producing region, the discovery of those riches fell like a terrible calamity. It completely upset the relations between labor and capital. Then came the extraordinary discoveries in Victoria, which threatened to depopulate South Australia. The attraction to the diggings was irresistible. The Chamber of Commerce described the year as "one of unusual interest and anxiety to the mercantile community, on account of the unprecedented crisis which had taken place in the affairs of the colony, threatening to all human appearance universal ruin." Credit was destroyed, trade paralysed, the public finances undermined, and a feeling of alarm and insecurity prevailed. The state of South Australia at the close of the year 1851 can only be realised by referring to the reports of the banks, of the Chamber of Commerce, and leading articles in the public press.

The Government Customs returns and financial reports all told the same tale ; one which fully justified the alarm and anxiety then prevailing, but now only matter of history. Men at the present date—although the prosperity of the colony is largely owing to the influx of gold brought into the colony by return diggers, and by the gold escorts established in 1852 to enable the successful South Australian diggers to transmit their hard-earned treasure to their families without themselves quitting the scene of their labor--men, I say, at the present date can scarcely be brought to believe the state of excitement then prevailing amongst the owners of property with the prospect of absolute ruin staring them in the face, a calamity averted by a Governor calling to his aid the united intelligence and mercantile experience of those usually in opposition to all the measures of a Government supposed to represent and to regard Imperial interests as paramount to colonial interests. The pastoral lords found their flocks without shepherds, and their banking credits suddenly restricted in the face of rapidly rising rates of wages and cost of the necessaries of life. Small farmers sold or mortgaged their properties to obtain the means of joining in the rush to Forest Creek and Mount Alexander, then the favorite resort of the goldfinders in Victoria. Riding through deserted districts the traveller would see the cottage and garden with, in general, a small wheat stack left for the support of the wife and family, but no male in-

habitants. They were off to the diggings. Bankers found the gold in their vaults, which was to enable them to pay their notes on demand, rapidly diminishing and flowing off to Victoria, either in the purses of the diggers, or to maintain the solvability of the head establishments in the neighboring colonies, of which they were for the most part only the representative branches. Wholesale and retail dealers and importers found their stores full of unsaleable goods, and their assistants gone or eager to join in the rush. Government servants and housewives throughout the colony found the cost of living suddenly enhanced, and themselves in debt for the necessaries of life; rents had fallen, and small holdings were unsaleable at any price.

Such was the condition of South Australia at the commencement of the year 1852, and such was the crisis which Sir Henry Young was called upon to avert. In support of this view, which I can personally vouch, I will produce proofs. Statistical records are but dry details representing the classification of events, physical, moral, and intellectual; they are one of the inventions of modern civilisation, and are really the classified experiences of communities, from which general laws may be deduced, showing the certain but silent and invisible workings of evolution in all the departments of human history. To these I shall appeal, for fortunately for my case tables of statistics showing the progress of the several industries began

before this date to be carefully prepared. But I have before me a task the results of which cannot be included in this chapter, already long enough to try the patience of my readers. Reserving then the further history of the colony as told in the introduction and operation of a measure which completely met the exigencies of the times for another chapter, I shall close this statement by giving the words in which the Governor explained his position and opened the special session of the Legislative Council on January 28th, 1852. Suffice it to add, in the words of the Chamber of Commerce, "The effect of this measure was little short of miraculous." Sir Henry Young addressed the Legislative Council in a speech of which I shall only quote a few paragraphs. He said :—"A Bill will be laid before you to enable the banks temporarily, in addition to the notes issued by them and now in circulation within the province, to issue notes in exchange for, or to the amount of, any gold bullion purchased or acquired by the banks, at a fixed rate ; to entitle persons to demand from the banks notes in exchange for bullion at a fixed value ; to enable the banks to pay and satisfy demands upon them in bullion at a fixed rate ; and to make the notes of the banks a legal tender except at the banks, so long as the notes are paid on demand in specie or in bullion." "The Bill also provides for the establishment of an assay office, in order, on payment of the cost of assay, to facilitate to the banks and other buyers and sellers of

bullion the ascertaining of the weight and fineness of bullion sent there for assay." "During the limited and probably very short time which must unavoidably elapse before the arrival of importations of the coin of the realm can be expected, the Bill is intended to uphold the solvency of the banks against the probable results of a drain of their coined specie, to alleviate the inconveniences of an alleged scarcity of the circulating medium, and to encourage the return to the province of those persons who have procured gold in the adjacent colonies, and who may desire to invest it in South Australia." "The banking, commercial, trading, and other monied classes of the community, and also my official advisers in Council, concur in the utility and urgency of the specific measure now introduced."

The proofs of the statements describing the state of the colony prior to the passing of the Bullion Act were reserved for this chapter of my narrative. It will be seen that the Government were fully justified in the course they took, although it was opposed to the strict interpretation of the maxims of political economy, for without question the currency was tampered with in the remedy applied to meet conditions which no human sagacity could have foreseen, and this affords the reply to the disciples of Adam Smith and Ricardo. The book of statistics of South Australia for the year 1856, published in 1857, is a record which may be relied on. From its pages we learn that a census was taken

on January 1st, 1851, by which it was ascertained that the population numbered 63,700 persons of all ages and of both sexes. The males were 35,302. Deducting from this total male children under fourteen years of age, consisting of 11,663 individuals of that sex, there would remain 23,639 males. But this total includes the aged and infirm, and men of sufficient means to prevent them from leaving their homes in the general rush to the diggings, which was soon about to commence. If then we subject the number of adult males to the further correction of one-fifth for non-effectives, we find the able-bodied men in the colony reduced to a total of 18,911. The South Australian diggers then might probably have amounted to this number. The emigration by sea, imperfect as the returns would be, is stated at 6,025. The others to the number of 12,886 men must have travelled overland, if so large a number as 18,911 really left us for temporary work at the diggings. It would detract from the value of my testimony if I were to assume that this estimate is anything but an approximation. The Chamber of Commerce observed, "It is perhaps no exaggeration to say that at least 15,000 to 20,000 individuals left South Australia during the prevalence of the gold mania" (see their report for 1851 in *South Australian Register* of August 5th, 1852). All that I insist upon is that the greater part of our useful labor left us for the diggings in 1851, and this of course involves the cessation of all industrial production. But

other consequences followed. Each man must have taken with him on an average ten pounds in specie to pay his travelling expenses, and provide the necessaries of life until his labor at the diggings should be productive. This amounted to a drain of gold sovereigns from the bank vaults. Every bank-note in the possession of the intending emigrant would be converted into coin as the only circulating medium on which he could rely over the border. Taking the lowest estimate of 15,000 emigrants, this would imply a drain on the banks of £150,000. Such a drain as this involved the necessity on the part of the banks of restricting their note circulation and of diminishing their discounts of commercial bills, which had the effect of paralysing trade, and left the already glutted markets without purchasers for their commodities. Home stocks and goods of all kinds were reduced in price, so as to become unsaleable at a profit. This condition of the money market is rendered palpable by quoting the bank returns for January of 1852, which give the following results as the total of the three banks, namely, deposits, £211,007; notes in circulation, £84,605; bills under discount and other securities, £606,826; coin, £97,600. This means trading by bills, small cash credits, a note circulation far below the wants of the colony, and a dangerous diminution in the quantity of coined money in the bank vaults. Add to this ill-omened picture the fact that the foreign exchanges were greatly against the colony since the

imports for the three years of 1849, 1850, 1851 taken together amounted to £2,135,897, whilst the exports for the same period were only £1,575,757, leaving the balance against the colony equal to £560,140 on the three years' transactions. These figures are quoted from the Government tables in Mr. Marcus's book. When the colony buys more than it sells the difference must be made up in specie or in re-exportation of imports, and in the meantime the exchange rules against the colony. During these arrangements the colonial producer for exportation, whether of wool, copper, wheat, or other farm produce for which he has to obtain cash in the colony to pay wages and for the necessaries of life, and trade, has to pay heavily to his banker in the shape of discount on the bills he sells to the bank. Money at such times is said to be tight, and those who want to buy it must pay for it.

The general tightness of the money market may be judged amongst other facts by the amount registered as borrowed on mortgages of real property during 1851; and this shows a total of £197,788 4s. 1d., and in the previous year had amounted to £140,650 1s. 9d.; debts which probably in great part if not wholly must be added to the liabilities of 1851. The indebtedness of the colonists to the banks and to capitalists may be estimated at considerably more than £16 a head of the whole population—men, women, and children. Thus :—

| | |
|---|-------------------|
| Indebtedness to the banks for bills under discount | £606,826 |
| Borrowed on mortgages of land during 1850 and 1851 | 338,438 |
| Liabilities of individuals by bills of sale, judgments, &c., in 1851 | 70,631 |
| Total | <u>£1,015,895</u> |

This divided by the total population, 63,700, will bear out the statement, and it takes no account of book debts and bills discounted outside the banks.

All these circumstances considered show that the colony of South Australia was in a very critical commercial and monetary position at the time our laborers were leaving us for the gold-diggings of Victoria; and being fully laid before the government in memorials and statements from bankers and merchants, justified the passing of some unusual measure of legislation to sustain mercantile solvability and secure the return of the diggers to South Australia with their hard-earned golden harvest which they were reaping at Mount Alexander and Forest Creek. The Bullion Act has been criticised by the political economist, and no doubt in some respects it was a departure from the principles of that science, for a science it was made when in the year 1776 Adam Smith published his immortal work under the title of "Wealth of Nations." The phenomena of wealth and also of society at large were classified by him and arranged under their various forms; also the circumstances which gave rise to the invention of

money and the changes in its value. The range of exposition of the principles which govern the whole working of our political, social, and religious systems, displayed a power of thought, observation, and generalisation which no writer had previously exhibited, and which no student of the science of political economy has since been able to gainsay. The Bullion Act of South Australia was an attempt to interfere by legislation with the currency and the laws of demand and supply ; but it was an attempt which the concurrent testimony of all the bankers, merchants, and others engaged in production and trade declared to be necessary to meet an unforeseen emergency, and it was justified by the result. It proved a great success. Sir Henry Young records this united testimony in his opening address which I have previously quoted. The Chamber of Commerce, in their published report in August, 1852, after a six months' trial of the Act declared that its effects were little short of miraculous. "Credit and confidence were almost instantaneously restored." "The most sanguine could only have calculated that it would break our fall—that it would save the colony from general bankruptcy." And they add, "It has been the instrument of averting general bankruptcy. By its wise and salutary operation our population who were attracted to the goldfields have returned to spend and invest their treasures in this colony." Frequent mention has hitherto been made of the Bullion Act—

an Act which no longer appears on our Statute book, having long since expired; its life having been limited in the first instance to twelve months. Few persons in South Australia probably have ever heard of it, and many who are in the possession of a competency are unaware of the impetus which it gave to the production of wealth and of unexampled prosperity.

We have been justly proud of our copper and other mineral exports. The Burra mine, and the Kapunda mine, have been described as the wonders of the world. And their produce for the ten years ending 1852, was valued at a total of £1,934,388, which, with some fluctuations, has been greatly exceeded if we compare the decennial periods ending 1862, 1872, and 1882, with the first ten years of the discovery of our copper deposits. In one year, 1852, the quantity of gold-dust brought into South Australia by land and sea, the most part of it being produced by the labor of our diggers who returned with the fruits of their enterprise, and invested their earnings in the purchase of land and other industrial speculations, could not have been less than one million and a half of sterling money. If we reflect that this prodigious accession to the capital of a colony numbering at the close of the year about 68,663 persons, and that this sum may be estimated clear of out-goings—absolute net profit in short—for it was brought here or sent here, as the savings of men who had paid the cost of living exclu-

sive of this amount, we must be prepared to admit that the prosperity of the colony was advanced in a greater degree by the influx of gold in one year than could possibly have been the case by the nearly equal gross amount of the export of minerals raised in South Australia in the ten preceding years. The exports of colonial produce in the form of wool, breadstuffs, and minerals during 1852, reaching a total of £736,899, afford a measure of the value of the capital invested in those industries. And these interests suffered greatly from the temporary withdrawal of their most useful labor, yet the wages fund of the colony was not drawn upon by the absent laborers, and thus the disbursements on account of capital invested in such colonial industries were proportionally saved; whilst nature was causing the wool and wheat to grow. In this way the return labor, accompanied with a sum in gold bullion, which the Government Assay Office announced as exceeding in one year the value of £1,462,836, more than counter-balanced any losses sustained by the colony in the non-employment of the usual labor during the exodus. The value of all fixed property and also of our flocks and herds was greatly augmented as soon as the diggers returned; and not only was this the case but commerce and trade revived. The Bullion Act effected all these results, since it gave a high marketable value to gold-dust, and in this way brought back our labor in the course of a few months. The unerring causes which the political

economist would fain have invoked as sufficient to secure the influx of specie and restore the circulation and exchanges to healthy conditions, would doubtless have operated to bring about a return to plenty and prosperity; but it would have been a very tardy result. They would have failed, moreover, to bring about a return of our labor, which to the number of 18,000 of the best bone and sinew of the colony had left us, and these men if lost to the colony would have invested their earnings in the province of Victoria, whilst disaster would have overtaken one or more of our colonial banks, and many of our ablest and leading merchants and capitalists must have taken refuge in the Insolvent Court. A bold, unusual, and immediate remedy was called for, and Sir Henry Young and his executive advisers took counsel of the whole colony, and loyally yielded to the wishes of the colonists, fully impressed with the necessity and wisdom of the course adopted.

The Legislative Council was summoned to a special session of one day to discuss a single measure. The Bullion Act, No. 1 of 1852, became law in one and the same day, and was passed through all its stages in a legislative body which had come into existence only the previous year. It was the first fruits of the concessions made by the Imperial Government of representative institutions. Its great principles consisted in establishing a market in South Australia for gold-dust at a fixed price far in advance of the price

obtainable by the digger from the bullion merchant in Victoria or Adelaide; and in order to induce the sale the banks were authorised to issue their own notes as a legal tender in exchange for gold presented to them to an extent limited only by the amount of stamped gold ingots received from the Assay Office at a value fixed by law at 71s. the ounce weight of standard gold. Standard gold at the royal mint in London contains 22 carats of fine gold to the ounce weight, alloyed with two carats of copper to harden the gold sufficiently to render it workable into sovereigns. The minted sovereign contains 113.001 grains of fine gold, valued by law at twenty silver shillings; and the value of a single grain of standard gold is 2.1238d. nearly. Roughly, every grain of such gold may be said to be worth 2d. I have given these figures because the Bullion Act was found to require amendment in some particulars, which I shall presently relate, arising out of the excessive quantities of gold placed in the banks in the form of bullion, and other causes. But before I refer further to the Amending Act, No. 14 of 1852, it will be requisite to give a narrative of the working and effect of the Act which it amended. The first step taken by the government had been the establishment of an Assay Office in Adelaide, under the control and management of Mr. B. Herschell Babbage, who was appointed Government assayer, and furnished with every requisite and assistance according to his own specifications and conditions. The Assay Office was

opened for the receipt of gold-dust on February 10th, only thirteen days from the passing of the Bullion Act, and it continued in full working order till the last receipt of gold-dust on February 15th, 1853, during which period the total gold deposited amounted to 412,066 ozs. 10 dwts. 14 grs., which valued at 71s. the ounce, gives £1,462,836 3s. 6d. The returns from the Assay Office now before me show that the first receipt of gold into the office was made on February 10th, 1852, and amounted to 2,910 ozs. 8 dwts. 9 grs. The office being open two days in every week, gold continued to flow in for assay. Then followed the establishment of an overland gold escort service from the Victorian diggings to Adelaide, which was soon seen to be a useful and perhaps necessary adjunct to the successful operation of the Bullion Act, since without it the South Australian diggers must have sent their gold-dust by Victorian escort to be shipped at Melbourne for Adelaide, passing through several hands in its passage to their families. That the diggers would have sent their earnings to the Adelaide Assay Office by sea had there been no land escort would have been determined by the superior price which it brought over and above that obtainable in Melbourne. In Melbourne gold-dust found a market at from 55s. to 60s. the ounce, whereas in Adelaide the Bullion Act had raised its value to 71s. the ounce. But when established, the gold escort, as a means of transport, was naturally preferred by the digger from the greater reliance placed on the safety of this mode of

remittance, and taking all the contingent charges into account, on its cheaper transmission. The first gold brought by Adelaide escort was carried free of charge. It was afterwards subject to a charge of 2 per cent., reckoned at 1s. 4d. the ounce; and this was reduced in May, 1853, to 6d. the ounce. Before the escort service was projected the Government had resolved on a large reduction in the members of the police force, as it was deemed that the inducements for the diggings could only be counteracted by a greatly increased rate of pay, which, in the gloomy prospects of the colonial revenue, it was not considered would be safe or judicious; and this reduction was the less objectionable from the certainty that the scum and roughs of the colony, having mingled in the general rush, there was less need of a strong protective police. This reduction at first placed a difficulty in the way of the Government when it was proposed to them to undertake the escort service through the means of the mounted police. However, this was overruled when in consultation with Mr. Tolmer, the head of the police force, it was seen that the first escort, considered as a mere experiment, could be formed of fewer men than at first was supposed to be necessary. Mr. Tolmer, the head of the police force, willingly undertook the duty with comparatively a very small force, and he was despatched for Mount Alexander about February 10th. He returned to Adelaide on March 19th following with 5,199 ozs. of gold-dust. Before the return of the escort the data

furnished by the Government assayer showed that upwards of 12,204 ozs. of gold had been deposited in the office between February 10th and March 16th, 1852, and during the first quarter of the year the Collector of Customs reported the arrival by sea of 28,987 ozs. of bullion. It was evident, then, that gold-dust had found its way into the colony irrespectively of the escort, and even before the passing of the Act which gave it a fixed and superior value, from what sources or by what route I cannot discover. It may or it may not have been sent by speculators after the high price had been ascertained on the passing of the Bullion Act on January 28th, which is highly probable; but some portion may have been sent by successful diggers to their friends by sea as well as overland. After the first successful trial of the overland escort that mode of transmission seems to have been preferred by the Adelaide diggers, and each arrival brought larger supplies to the Assay Office. The second escort on May 6th deposited as much as 18,901 ozs. 15 dwt.; the third brought 28,099 ozs. 10 dwt. Then 24,793 ozs., followed successively by 39,443 ozs. 10 dwt. and 42,007 ozs. 5 dwt., until on November 20th, 1842, the monthly produce by escort rose to 43,944 ozs. 10 dwt., which I find is the largest amount brought in any one month by escort. Eighteen escorts in all continued to deposit their golden treasures until December 21st, 1853, when the service was discontinued, as this last escort brought over on that day only 3,696 ozs. 15 dwt.,

making up a total of 328,509 ozs. 19 dwt., equivalent at 71s. the ounce to a money value of £1,166,207 nearly. I have stated that the total weight of gold-dust received into the Assay Office from its opening to its last receipt on February 15th, 1853, was 412,066 ozs. 10 dwt. 14 grs., and I find that the escort brought in all 328,509 ozs. 19 dwt.—leaving a difference of 83,556 ozs. 11 dwt. 14 grs., which must have been brought into the colony by sea to the extent of 29,111 ounces, leaving from unknown sources 54,445 ozs. 11 dwt. 14 grs. Some of this may have been raised at the Echunga diggings. With reference to the services of Mr. Tolmer in command of the escort, I may quote the opinion of the Chamber of Commerce, who, in their annual report of July, 1852, say that—"When alluding to this subject it would be ungrateful not to mention in the terms of commendation the name of Mr. Tolmer, who first demonstrated the practicability of the overland route for the regular transmission of the gold to Adelaide." As an unbiassed and impartial narrator of the events I am attempting to describe, I cannot refrain from quoting the above remarks of the Chamber of Commerce as a just tribute to his zeal in the discharge of a self-imposed duty.

I have mentioned the state of the colony at the close of the year 1851, which led to the passing of the Bullion Act. I have mentioned that the Act, amongst other provisions, fixed the value of assayed gold of standard purity at 71s. the ounce, and that a Government Assay

Office was opened to receive the gold-dust and affix its stamp on the ingots. I have stated that in order to provide a sure market for the bullion in Adelaide the banks were authorised to issue their own notes to the depositor of bullion with them at the rate of the value of the gold bullion as fixed by law ; and I have added that an enormous quantity of gold bullion, amounting in value to £1,462,836 3s. 6d., was received into the Assay Office and passed over to the banks to the order of the owners of the same. It appears further that our gold-diggers returned to the colony when they had reaped a sufficient harvest of gold, and all this I have attributed to the operation of the Bullion Act. But after a few months' trial it was found that a serious responsibility had been imposed on the banks in requiring them to issue their own notes against bullion, whatever the quantity offered to them by the owners, so that a paper circulation was set afloat beyond the necessities of trade ; and the notes, although made a legal tender between third parties, could not be used by any of the banks as a legal tender in payment of their own liabilities. The ingots were inconvenient as a means of payment in ordinary transactions, and it was a source of complaint that on the expiry of the Act, which had only a duration of twelve months, the banks would be compelled to redeem their engagements in specie, when, perhaps, they had not time for the exchange of the ingots they held into coin. The Chamber of Commerce in their annual report for 1852

published, as I have before stated, in the beginning of August, a carefully-considered state of the colony under the operation of the Bullion Act, and finally agreed to present a memorial to the Governor tendering their advice under the circumstances. The memorial set forth—

“That in consequence of the quantity of gold brought into the province so far exceeding in amount the most sanguine expectations entertained at the period of passing the Bullion Act, the circulating medium of the several banks has been already found insufficient to meet the demand ; that such demand continues to increase with great rapidity, and your memorialists have recently felt much and apprehend still greater inconvenience in consequence of the amount of gold exceeding the means of the banks to provide to an adequate extent the notes or sovereigns requisite to meet the obligations created by that Act. That your memorialists consider that the issuing by the Assay Office, in exchange for rough gold there lodged, of pieces or ingots of gold of a uniform standard, and of a size and character adapted for a circulating medium, and made by the authority of your Excellency and the local legislature a legal tender in all business transactions, would materially, if not altogether, relieve trade from the existing inconveniences to which it is subjected, and the banking establishments from the onerous responsibility of immediately importing sovereigns to meet an extent of circulation which has already far exceeded all previous expectations, and which it is certain to be still more largely and beneficially increased, provided the suggestion now respectfully submitted to your Excellency be speedily adopted.”

This memorial was presented by Messrs. Bentham Neales, Hare, and Younghusband, and was signed by twelve of the elected members of the Legislative Council, by the managers of the Union Bank and South Australian Banking Company, and by 100 of the leading colonists. A document so important and so influentially signed demanded and received the prompt attention of Sir Henry Young. The same afternoon

the Colonial Secretary replied to Mr. Neales in the following terms :—

“ Colonial Secretary’s Office,

“ July 30, 1852.

“ Sir—I have the honor by the Lieut.-Governor’s directions to acknowledge the receipt of a memorial this day submitted to His Excellency from certain members of the Legislative Council, bankers, merchants, and others, praying for an issue of gold ingots of a uniform standard, and of a size and character adapted for a circulating medium. In reply I am directed by the Lieutenant-Governor to intimate to you that, in compliance with the prayer of the memorialists, ingots assayed and stamped deliverable at the banks to the order of depositors of gold-dust in the Assay Office will at as early a date as may be practicable be delivered in future by the Government assayer at the banks in tokens of uniform values at the legal rate of £3 11s. per ounce. These tokens will be made so as to be capable of being guaged by weight and measure, and—like the ingots heretofore issuable—are a legal tender at the banks under the present law. I am instructed to observe that this is a measure in His Excellency’s judgment, and that of his Executive Council, not only legitimated by the provisions of Act No. 1 of 1852, but naturally resulting from the notorious fact that the harvest reaped by South Australian industry and enterprise from the goldfields of the adjacent colony has proved very much larger than was at first conceived to be possible. It is a measure of relief to the local banks from demands for an inconvenient issue of notes in exchange for ingots. It facilitates the substitution of of token ingots of uniform value calculated at the legal rate of £3 11s. per ounce of standard gold in lieu of bank notes; and it is calculated to promote the satisfactory operation of the Bullion Act to its final end on January 28th next; assisted by a supplementary Act to authorise the banks to pay their liabilities in bullion for such further period after the expiration of the Act as may appear to be requisite for their protection. Moreover, this measure will tend to develop in the present Assay Office that practical skill and experience which in case of future need, arising from the absence of a Royal Australian Mint, might fit the Adelaide Assay Office to meet the demand for a metallic circulating medium in this colony, and give to its inhabitants the same facilities for the conversion of bullion into currency which they would possess if not removed from the parent State. This important object, if it should become necessary to provide for it by future legislation, can most conveniently be effected by an Act distinct and separate from the Bullion Act.—I have, &c.,

“ B. T. FINNISS, Colonial Secretary.

“ To J. B. Neales, Esq., M.L.C.”

The Supplementary Act mentioned in the Colonial Secretary's letter, although prepared and in print, was not laid before the legislature, as it was found unnecessary at the passing of the Minting Act, as I consider No. 14 of 1851 may be called. Not only had Sir Henry Young to meet the conditions stated in the memorial of July 30th, but there seemed a great probability that South Australia was a gold-producing region, and that our diggers might find employment at home without resorting to Forest Creek and Bendigo. A man named Chapman claimed the reward of £1,000 offered by the legislature for the discovery of gold in paying quantity in our own colony. Other claimants had also put in an appearance as discoverers of the precious metal in other localities. As Chapman's discovery was found to be of real importance from the specimens and other testimony to his truthfulness adduced, Sir Henry Young despatched the Colonial Secretary to verify his statements, and that officer left Adelaide on August 24th to view the reported goldfields. His report is here given. It was dated August 25th, 1852, and ran as follows:—"Sir—I have the satisfaction to be enabled to report to Your Excellency that I left Adelaide yesterday morning, accompanied by Captain Freeling (Surveyor-General), and guided by a man named Chapman, who has put in a claim for the reward of £1,000 offered by Government for the discovery of a profitable gold-field in South Australia.

Arrived about 2 o'clock at a spot in the stringy-bark forest, nearly two miles beyond the bridge over the Onkaparinga—at Warland's public house. There in the presence of many persons I witnessed the washing of several tin dishes of surface soil taken indifferently from various places; in all except one gold-dust was obtained. I filled a dish myself, making a selection of the spot away from where any other person had been, and on the earth being washed gold-dust was obtained. I then requested three men, of whom Chapman was one, to take the earth from any place of their own selection and wash until they obtained an ounce of gold; this was accomplished in less than an hour with no other appliances than one spade and three tin dishes. I am quite satisfied that the soil for some acres at least is highly auriferous, and that there is every probability of this becoming a profitable working. As country of a similiar formation extends to a considerable distance to the north, and stretches away to the south towards Encounter Bay and Cape Jervis, it is not unreasonable to suppose that goldfields may be discovered in other places—probably also on Kangaroo Island. The formation at the goldfield upon which I am reporting consists of sand, quartz, and ironstone in a state of gravel, resting immediately on clay with a rocky substratum of sandstone. As this formation is indicated in this province generally by the growth of the stringy-bark tree I am induced to believe that all our stringy-bark forests will be found

auriferous. Mr. Bonney, the Commissioner of Crown Lands, joined me on the ground, and I left him with a small party of police and a surveying party. He was issuing licences to dig for gold when I left at half-past 5 o'clock on the same day, and numbers of diggers were preparing to take out licences this morning, which will fully test the value of this field. I am not able to state with certainty whether the spot where I saw the gold raised is private property or belongs to the Crown, although I believe it to be Crown property. The party of surveyors will ascertain the fact to-day, and I have directed Mr. Bonney to send in a special report to-morrow of the result of to-day's operations.—I have the honor to be, &c., &c., B. T. FINNISS. P. S. —The distance from Adelaide is about twenty-two miles, and the goldfield is intersected by the main road to the south-east. B. T. F." It has been impossible to ascertain the amount of gold raised at Echunga, as the diggers were cautious of reporting their success in order not to induce competition.

Thus with the possibility, almost amounting to a probability, that goldfields might be worked in South Australia the necessity of passing some amending Act to protect the banks and provide for a metallic currency became more urgent. The Governor therefore for the moment enlarged the sphere of his advisers and took into his counsels by special invitation all the nominated members of the Legislative Council and two of the managers of banking establishments. A

meeting of the Executive Council was summoned on September 6th, 1852, at which there were present the Lieutenant-Governor, the Colonial Secretary, the Advocate-General, the Surveyor-General, the Collector of Customs, the Colonial Treasurer, Mr. Grainger, M.L.C., Mr. F. Dutton, M.L.C., Mr. Gwynne, M.L.C., Mr. Tinline, and Mr. Blackwood. The existing commercial situation was fully discussed, and it was unanimously agreed that in view of an address from the Legislative Council, in which that body had already requested the Governor immediately to make and issue money tokens to replace the bullion ingots, and of the fact that some time was required to prepare the Assay Office to undertake new duties demanding great mechanical skill, the introduction of the proposed new measures into the legislature might be safely delayed until a later period of the session, with the additional advantage that it might be rendered more perfect by information expected from England. Mr. Tinline and Mr. Blackwood placing full reliance on the Governor to introduce a Bill at the proper time to protect the banking interests, agreed in the expediency of the delay suggested. Sir Henry Young then urged forward the preparations for the conversion of the Assay Office into an establishment for the making of gold tokens, and shortly introduced a Bill into the Legislative Council providing that stamped gold should be a legal tender, in token pieces of the value of £5, £2, and £1. The Bill after passing through all its stages

became law on November 23rd, 1852. At this date the circulation of notes by the several banks had increased to £367,919. Their specie was £158,157 16s. 10d.; and the bullion held by them amounted to £1,052,286 2s. 1d. For the week ended March 8th. of the same year the average of notes in circulation was only £83,968 6s. 8d.; the coin, £67,272 18s. 9d.; and the bullion, £2,038 4s. 5d. If the reader will compare these results of nine months' transactions he cannot but consider that the colony had emerged from a perilous position to one indicating a plethora of gold, but a most inconvenient disproportion between the paper and gold circulation. The conversion of the bullion into a manageable metallic currency was evidently a great measure of relief, and I find that on February 8th, 1853, the Assay Office had issued 18,462 stamped tokens representing specie, and that 28,690 ounces of gold remained in the office in process of being converted into tokens, the money value of which would be about £101,849. The Assay Office was finally closed to the receipt of gold on February 15th, 1853, in consequence of the diminished quantity tendered for assay and stamping, which had then fallen short of 4,000 ounces in four consecutive weeks. Care had been taken in the manufacture of the local gold tokens that sufficient gold of standard fineness should be used to increase their value beyond that of the Imperial coinage by 1s. 10d. in each token, representing £1 sterling. The gold-dust in the Colonial

Mint was alloyed with silver instead of copper, as used at the Royal Mint. This added slightly to the value of the token, so that each token of £1 may be said to have had a value of 10 per cent. more than the Imperial sovereign. The effect, as was intended, was that until a sufficient importation of specie they took their place as a convenient metallic circulation in all business transactions, and were speedily replaced by the Imperial coinage; and thus the Bullion Act, with its amending Act and the Assay Office, having done their duty in restoring public and private commercial confidence, and in securing the return of the greater number of South Australian gold-diggers, the Acts disappeared from the statute-book of abiding laws and have become matter of history. And here in conclusion of this chapter I venture to express the suggestion that a few of the gold tokens should be purchased and preserved in our colonial museum as a record of the South Australian skill and resource in times of unexampled difficulty. Coins and medals are amongst the most enduring records of history, and have served in times past, and still serve when any fresh discovery is exhumed from ancient ruins, to recover dates in the order of events long since forgotten which even inscriptions on monuments of the hardest stone, apparently imperishable, would have failed to establish. Before I close the rule of Sir Henry Young the task yet remains before me of relating the opening of the River Murray to navigation, the effects of the

Russian war in giving rise to our defensive institutions, and the struggle for responsible government loyally supported by Sir Henry Young, when in the year 1853 he brought before the Legislative Council a measure to secure that object called the Parliament Bill.

We have only to examine the Index Book of our Ordinances and Acts of Council to perceive that the five years ended in 1854, inclusive, were years in which many of the legislative measures on which the progress of the colony is based were introduced, and by being passed into laws mark that period as one of the most fruitful in developing our material resources. Whilst social and moral conditions were not overlooked it is evident that physical and material phenomena commanded the foremost consideration in the minds of the governing powers. Railway accommodation occupied a large share of attention, and the colonists were not behind in appreciating the extraordinary discoveries and useful application of steam as a motive power. In England, the first of the European powers to adopt steam communication both by sea and land, the country and parliament were about this date excited to the utmost tension; the first, by the efforts of railway companies to secure the best lines of transit for themselves; and the latter in protecting the interests of the public against a threatened monopoly of profit. It was, however, by slow degrees and cautious resolves that the Legislative Council could be moved to adopt and sanction the views of the Government. It was

not altogether because the principle was objected to, although there were some conservative minds who objected to railways because they were a disturbance of the existing order of things, and threatened to supersede bullock-drays and horse teams in the conveyance of produce. But local interests took alarm, especially amongst the wharf proprietors of Port Adelaide, who had recently associated their interests by the formation of the Port Land Company. These Port proprietors, who, by judicious selection of their land, and investments in wharfage accommodation and storage, had obtained a monopoly of harbor profits, were unwilling to permit their prospects to be endangered by any extension of shipping accommodation to the deeper water at the North Arm, as it was then called, of the harbor, as was proposed by Sir Henry Young when he introduced and carried through his Nominee Legislative Council on February 19th, 1850, an Ordinance for making a railway from the City to the Port of Adelaide, with branches to the North Arm. Sir Henry and his Executive Council were influenced in their views by the fact that the water in front of the Queen's Wharf, where the principal ships discharged and received cargoes, was so shallow at that time that vessels lying alongside the wharf took the ground at low tide, and were, moreover, impeded in their passage up the river to their final moorings by a shoal in front of Torrens Island, called the inner bar where they sometimes took the ground,

or were obliged to wait for the tide. The removal of the inner bar, was commenced by Sir Henry Young, as necessary to the proper navigation of the river, whichever terminus might be adopted for the Port railway. Ship owners and masters were loud in their complaints of the insufficient water accommodation. I do not deem it of any importance to give the arguments on which Sir Henry Young based his policy on this question, because the full power of local interests was brought to bear against it, and the extension of the railway to the deep water then to be found inside the North Arm reach was successfully combated. A private ordinance was passed on March 5th of the same year to guarantee to a company called the Adelaide City and Port Railway Company certain divisible profits. Both these ordinances, however, were held in abeyance, owing to the opposition alluded to, until a later period, when Sir Henry Young was enabled to submit the whole question to a partly elective Legislative Council, constituted on February 21st, 1851, which I have already given an account of. Then with this new legislative body, of whom two-thirds were elected members, he submitted another scheme, in which, yielding to the expression of opinion by his new advisers, and to allay all suspicion as to his desire to act in accordance with their views, he gave his sanction to "An Act to Authorise the Appointment of Undertakers for the Construction of the Adelaide City and Port Railway," on October 1st, 1851.

The necessary funds to proceed with the work were subsequently voted and placed under the management of this executive body on November 16th, 1852. Further funds were provided in December, 1853. And Sir Henry Young, intent on extending the railway system, which he had inaugurated, proposed and passed through the Legislative Council, "An Act to Authorise the formation of the Adelaide and Gawler Town Railway, and to Provide for raising the Money required for that Purpose," to which he gave his assent on December 16th, 1854, on the eve of his departure from the colony.

Sir Henry Young was the first Governor who instituted the railway system of South Australia, and provided for the construction of certain lines by loans negotiated in London, thus initiating the national debt of South Australia, which, in 1854, was limited to £135,000, borrowed at 6 per cent. The population at this date was only 92,545 persons, and the credit of the colony on trial. Hence the rate of interest offered was high to tempt purchasers of our first bonds, and care was taken to provide for the payment of the principal by permanent acts of appropriation for their gradual liquidation. The public debt authorised during the administration of Sir Henry Young amounted to £400,000 for railways, including the Port and Gawler lines; and, in addition, for improvements to the harbor of Port Adelaide, a further sum of £100,000; the total debt authorised

during his administration was thus £500,000. This governor may, therefore, be considered the father of our locomotive railway system, since the construction of the works was provided for in his Acts of Council, although they were only in the initiative stage when Sir Richard MacDonnell arrived. In his valedictory speech to the Parliament on December 3rd, 1861, on its prorogation Sir Richard reminds the Houses that when he landed in 1855 there was not a mile of railway opened in the colony; yet there were when he was addressing the Legislature fifty-seven miles of railway in use. The battle of locomotive railways against tramways was fought and won by Sir Henry Young, and the financial measures were passed by him. By yielding loyally to the wishes of his Legislative Council and abandoning his scheme of making the North Arm the terminus of the Port Railway, he succeeded in inducing his Legislature to promote the locomotive railway system as far as Gawler Town before he surrendered his government. Still further to assist in the improvement of Port Adelaide, Sir Henry Young, as soon as the finances of the colony, benefiting by the prosperity that followed in the wake of the importation of gold-dust and the return of the successful diggers, justified him in taking such a step, introduced and finally gave his sanction to an Act passed on December 16th, 1854, for the appropriation of the sum of £100,000, to be raised by loan, for the deepening and improvement of the harbor. Thus Sir Henry Young

initiated the railway system in South Australia, which was soon to be adopted throughout the length and breadth of the land. A great effort was at first made by Mr. John Baker, Mr. Thomas Reynolds, and conservative members, to substitute horse tramways for the more elaborate system which was thus inaugurated, but the attempt failed after much discussion in a more advanced parliament. The electric telegraph, a necessary adjunct to a system of locomotive railways, was another of the improvements, adding then and since to our material progress, which Sir Henry Young left as a legacy to South Australia.

The incorporation of the Trinity House of Port Adelaide was effected on October 22nd, 1851, upon which basis the Marine Board of the present day has been since constructed. Fully alive, also, to the social and moral advancement of the colony, and, at a time men's minds were disturbed by the approaching disquietudes arising out of the gold discoveries in Victoria at the close of 1851, Sir Henry Young prepared and passed into law "An Act to promote Education in South Australia by aids towards the erection of Schools, and the payment of stipends to Teachers." This measure, No. 20 of 1851, was undoubtedly a great advance on the previous system of education, and ultimately, from its liberalising and secularising tendencies, gave rise to the question of Bible reading and teaching, which later occupied so prominent a position in controversial disputation ;

the differences of opinion being, whether Bible reading should be compulsory or permissive; and, again, whether Bible reading should be taken in connection with Bible teaching in State schools.

I shall content myself in this place with giving full prominence to the Act of Sir Henry Young, which appears to have been satisfactory to the several religious bodies in the Province until the torch of discord was lighted up by Bishop Short, when, in his pastoral address of 1880 to the Anglican Synod, his Lordship, under the head of "Secular State Education," is reported to have said: "That question is, how far a purely secular system of State education will tend to form the future moral character of the 'million.' I have been at pains," his lordship said, "to look through the series of elementary spelling and reading books, and I am bound to say that in many pretty stories they do inculcate the fear and love of God, as well as the morality of the ten commandments; of Gospel revealed truth, however, I failed to see more than casual notice; I did not observe the name of Jesus once introduced. Our State education then, if theistic, is not Christian; so that after nineteen centuries we can only say that the civil power, though not persecuting the church, is decidedly neutral as regards the claims of the Gospel. It is right that the Christian people of this Colony should clearly understand how their rulers have legislated in regard to Christian education. The Roman Catholics, I repeat it to their

praise, have resolved that, with respect to their children, elementary secular education shall not be severed from religious dogmatic teaching. The Christian Brothers and the Sisters of St. Joseph, with admirable zeal and self-denial, undertake the task of supplying the young members of their Church with combined religious and secular education. The other portions of the Christian community, although glorying in their Puritan descent and allegiance to the inspired Word of God, nevertheless, with singular inconsistency, boast that they have fought and won the battle of secular education—that is to say of ignoring the Gospel in State education. With few exceptions such as the Pulteney-street School and St. Paul's School, those at Walkerville, Yankalilla, Morialta, and St. Peter's Collegiate School, the State system has become, I believe, all but universal. What is the cause? Unquestionably the sinful divisions of the Church of Christ—the various religious bodies under different denominations stand apart. *Certainly it is not the mission of the Civil power to make known the Gospel to 'the lambs of Christ's flock;' yet so far as practicable it is wisdom to give help to its being done.** Sound religious teaching will repress crime and prevent vice; but how shall the children hear it without a teacher?"

If I were writing the history of the present time in

* Which means the Church is to teach with aid from the State.

South Australia, perhaps I should feel it part of my task to review the effects of this pastoral address, and to note the various societies and contentions that have arisen out of it, but I desire to take events in their order. Yet, as I am giving an account of Sir Henry Young's educational measure, I cannot but remark that in this quoted address of Bishop Short, an Anglican Bishop, I place before my readers the opinion of the highest church dignitary on the working of that Act, and it contains the basis of the action taken in the formation of the Bible in State Schools Society, which I shall equally avoid reviewing on this occasion.

Sir Henry Young's Act was intended to quiet down religious discord by presenting to the people of South Australia a measure securing for their children "a good secular instruction based on the Christian religion, but apart from all theological and controversial differences on discipline and doctrine." This principle, printed in the preamble, silenced all opposition to the measure on its passage through the Legislative Council, in which sixteen elected members out of a total of twenty-four members—eight of them nominated by the Crown—fairly represented the voice of the people. That this Act, No. 20 of 1851, which became law on December 29th, 1851, was adapted to the requirements of the community at the time the absence of all protests against its operation shows; and that it has proved a great success is evident from the testimony of Bishop Short as to the universality of its

adoption. Let me give some details of its working. In the year 1850, previous to its introduction, there were only 1,867 children attending 64 schools ; in three years—that is, at the end of 1854—the scholars had increased to 5,464 taught in 125 licensed schools. And if I extend the comparison twenty years in advance it will be seen that the schools which, in 1854, amounting to 125, were educating 5,464 children out of a total number in the colony, say 13,653, between the ages of two years and fourteen years, had in 1874 increased to 320, and the scholars to 17,426, the number of children of the ages mentioned consisting then of 29,230 individuals. In short, the proportion of children attending school to those requiring education but not sent to school was in 1854 nearly 41 per cent., and in 1874, 60 per cent. The system was sufficiently popular, and it is to be observed that I have included in the summation of children not sent to school those whose tender age was little short of that of infancy and those under fourteen years of age ; so that the proportion of children whose parents did not avail themselves of the facilities afforded by the government schools is really less than I have stated. In upholding this Act, which was amended in 1875 and 1878 by a more comprehensive system, in which the principles advocated out of doors were formulated in the words “secular,” “free,” and “compulsory,” and given effect to in our Parliament, which then and now is really a people’s Parliament, it was believed that the basis of

Sir Henry Young's Act had been carefully preserved, and the interest taken in education, as the paramount duty of the State, was evinced by endowing the school board with lands, to be increased with every public land sale, so as in the course of time to provide funds which, if not making the system self-supporting without taxation, would at least lessen the charges on the general revenue. I might be expected to give the arguments which impressed the minds of the supporters of Sir Henry Young's Act, so safely and successfully carried through the Legislative Council under the writer's charge as Colonial Secretary and leader of the House. Its non-sectarian character was its chief recommendation. The predilections of those who supported the measure were in favor of religious freedom and toleration. They had imbibed a lively appreciation of the evils of church domination, and could not fail to see that spiritual ascendancy meant persecution for conscience sake and an intolerant interference by the clergy in civil matters. After nineteen centuries it appears (as Bishop Short observes in his address, which I have quoted) "that we can only say the civil power, though not persecuting the church, is decidedly neutral as regards the claims of the Gospel." His lordship implies a severe censure on the civil legislature when he adds "that the Christian people of this colony should clearly understand how their rulers have legislated in regard to Christian education." There is something of the old intolerance

in this censure. It is the same old story over again. The use by the bishop of the words "nineteen centuries" reminds me of the historical fact that during the greater part of that period, say for more than a thousand years, the education of the people was entirely under the control of the clergy, and what has been the result? We have no longer persecution and penalties for conscience sake ; but we know not what might happen if any religious body, whether under the name of the Church of England or of any other denomination, obtained that ascendancy over the civil power which once characterised the State churches in England. And we do know, that whilst the education of the masses has been entirely in the hands of the spiritual powers during more than ten centuries, scientific studies have been almost entirely ignored in all our schools until now, and science itself regarded with suspicion and distrust both by the clergy and the middle classes as supposed to tend towards religious enquiry and Biblical criticism. Observe what words Bishop Moorhouse, of Melbourne, uttered when addressing a meeting of the teachers of the Church of England on the subject of religious instruction in State Schools. He is reported to have said—"The matter was one of life and death, and there were influences at work in the world which, unless counteracted, would bathe the earth in blood. He alluded to the terrible doctrine of Materialism, to which he attributed the bloodshed of Fenianism, Nihilism,

Socialism, and Communism, and which doctrine was now invading the population of Victoria, and from which he called upon his hearers to protect their little ones." This was said so late as May 28th, 1883. Denunciation is but a sorry argument; but we are impelled to ask what toleration for scientific thought or religious freedom can be expected from such teaching. I cannot suppose Dr. Moorhouse is ignorant of the meaning of Materialism. It is but a view of human and cosmical phenomena which every student of nature and her operations must know something of, or he can scarcely be up to the standard of modern education; and it is the province of science to interrogate nature by experimental investigation and experimental research, and to follow wherever sound induction may open the door to truth. Without such investigation and study the greatest discoveries of modern times would have been lost to mankind. We should have had neither railways, nor steam fleets, nor gas and electric lighting for our houses, nor could we transmit thought and language over the earth through the telegraph and the telephone in as many minutes as months under the reign of ignorance. Would Dr. Moorhouse have assisted the bishops in 1662, opposed the institution of the Royal Society in London, lest it should destroy the established religion, injure the universities, and upset ancient and solid learning? Yet these material results are but the fruits of its incorporation. Why, during the manifold

centuries of spiritual domination did not the church succeed in accomplishing "sound religious teaching," which, according to Dr. Short, "will repress crime and prevent vice?" In such case, civil Governments would not have needed at the close of the nineteenth century to take the cause of education into their own hands in order to give to the human intellect its full measure of political and social development. In the pursuit of knowledge, verifiable through physical experiments, men can travel on the safe road that leads to truth, although the spectre of Materialism should rise up to confront the daring enquirer. Not so, however, can religious teaching be followed; and what is the cause? To use, without adopting the reply of Dr. Short, "unquestionably the sinful divisions of the Church of Christ; the various religious bodies under different denominations stand apart." And yet we ought to be careful lest, if we cast upon the Government the responsibility of paying its teachers to teach religion and explain the Bible, we also throw upon the State the onus of determining where religious truth is to be found. There is a conservative party ever active and ever intent on preserving and retaining old theories, old doctrines, old traditions, because they are old, and are therefore supposed to contain the superior wisdom of our ancestors; as if each generation as it moves is gradually receding into ignorance and barbarism instead of profiting by the thoughts of the past and transmitting its own improvements for the benefit of

the coming generation. Such men, holding by the past, would stop all progress, and are thus not fit to be the teachers of the living. How will they explain to "our little ones" the mysteries of inspiration except in the language of the denomination to which they belong. These difficulties were all met in the principle of the Education Act of Sir Henry Young and in that of 1875, which is yet the law of the land.

I could scarcely without these remarks do justice to the educational measure which from the year 1851 to 1875, and later still to 1878, worked in harmony with the wishes of the great mass of the people, and has certainly had the effect of instructing the rising generation in the elementary principles of knowledge, thus enabling them to complete in mature years, through the perusal of books and of able leading articles in the press, both of the colony and of the mother country, a course of education without which a State must give up all hopes or expectations of social and material progress. The well-to-do classes were provided with the means of educating their children at an earlier period, when St. Peter's College was established in the year 1848, through the exertions of several gentlemen who subscribed towards its incorporation and otherwise assisted in promoting its success. Amongst these Dr. Short, the Anglican Bishop of Adelaide, deserves to be recorded for his eminent services in the organisation of this the first advanced school, and also the name of Mr. William Allen as a

munificent contributor to the funds requisite to give stability to the endowment. I am unable to mention the amount of his contribution, though his liberality was acknowledged in graceful terms by Sir Henry Young when he officially attended the inaugurating ceremony. It was subsequently imitated by the Rev. James Farrell. The interests of the higher education continued to be developed in times nearer our own in a way which, without anticipating, I cannot now do justice to, but must reserve for others to describe, should my own efforts not enable me to reach the more recent periods of South Australian history. I must, however, make mention of some really great undertakings for so small a community which even now scarcely exceeds 300,000 persons. And whilst omitting many superior schools for boys and girls maintained by private persons, that show much the advantages of good education have been all along appreciated in South Australia by a population engaged in a continual struggle to improve their material condition, I cannot but record that in 1855 the South Australian Institute became incorporated, followed in the year 1867 by the foundation of the Prince Alfred College under the auspices of the nonconformist bodies, and soon supplemented by the establishment in 1876 of an Adelaide University under the munificent endowments of Mr. Hughes, the leading proprietor of the Moonta copper mines, and of Sir Thomas Elder, whose family name is intimately connected from very early

times with enduring exertions in the cause of the progress of South Australia. It remains now for the Parliament of South Australia, with its enlarged powers of usefulness and an increasing revenue, to complete the edifice of State education by some practical measure whereby children of the poorer classes, who may manifestly display ability and genius in the elementary schools, may be assisted to continue their efforts until they reach the higher education afforded by the University. The moral philosopher will study with interest the account I have set before him of the progress of social science, in a comparatively new community, with but a limited population, as evinced in the care which has been bestowed on the education of the rising generation.

How different this result from the course of civilisation in the kingdoms of Europe that arose out of the ruins of the fabric of Roman greatness. There the struggle with the powers of darkness was slow, and for centuries almost indiscernible. It was the iron age of Europe—might against right. Ignorance was fostered as necessary to the submission and devotion of the enslaved masses of the people by a warlike and ferocious aristocracy and a luxurious religious hierarchy, wallowing in wealth, and living in splendor, the fruits of large landed possessions acquired through the bigoted superstition of ignorance. I need only refer to Hallam's "*History of the Middle Ages*" in support of these statements. Even in England, which from its

insular position was in some sort more independent of the social disorders of the Continent of Europe, and inhabited by a race always prone to assert its love of freedom, the progress of civilisation was marred by ignorance and want of scope for the development of learning and intellect. Hallam observes "that in tracing the decline of society from the subversion of the Roman Empire we have been led not without connection from ignorance to superstition, from superstition to vice and lawlessness, and from thence to general rudeness and poverty." The veil of ignorance was but slowly uplifted. The great schools of Winchester and Eton were founded—the first in 1373, and the last in 1432. The University of Oxford is said to have been founded by our English King Alfred, but it was not until the reign of Henry II. that it became a flourishing focus of education, and in 1201 it contained 3,000 scholars. Cambridge was not incorporated as a seat of learning until the year 1231. During the thirteenth century two or at most three colleges existed at Oxford, and but one at Cambridge. But the educational system at those Universities was chiefly theological and in the interests of the church. It had not attained the universality and liberalism of the course now followed, and the system pursued in the minor schools throughout England, chiefly in the hands of the parochial clergy, left the masses in deplorable ignorance. When we compare this state of things with the condition of the British colonies on the eve of the close of the nineteenth

century as to educational progress we cannot but feel admiration for the wonderful advance from the struggles and difficulties of the past to the easy steps by which these colonies have attained their present position of moral and intellectual culture. The cause is easily explained in the fact that we left the parent State when she was in the highest state of civilisation known in the world, and brought with us all the principles and appliances which so grand a civilisation placed at our disposal. We left the shores of England when political and religious freedom were fully attained and understood. Our rulers, influenced by the public opinion which was already formed in the colony upon advanced models, assisted us to perfect our social organisation, and we have only to keep steadily abreast of the phenomena passing in Europe, of which steam communication and the telegraph afford us ample information, to build up in the future an order of States that may be worthy to vie in greatness with those from which we boast our descent. And in the race let us never forget that if we do but cultivate the tree of knowledge we shall reap its fruits in the enjoyment of the greatest measure of happiness of which our nature is capable. I have undertaken to write the history of South Australia as far as my lights permit me in a philosophical spirit, so as to trace the evolutionary force that connects all events rather than to content myself with being only a compiler of those events in their dry chronological order, a system which may now

be handed over to the labors of the statistician, since the peaceful progress of civilisation affords special facilities for tabulating the results of human effort. And under this view of my self-imposed task, I have avoided as much as possible attributing events to individuals. In free states masses of men by united action, as in societies, joint stock companies, and other combinations for special objects, produce events and changes which in despotic governments are attributable to the rulers of such countries, who use their subject populations as the tools of their own will. I have not lost sight of this distinction, and find that impartiality is better secured and the bias of opinions and political considerations avoided in so doing. But I should imperfectly fulfil my intentions if I were not to draw the reader's attention to the results which my own judgment, following the laws of induction and deduction, permits me, and indeed requires me to trace to their proper conclusion. With respect to the question of education which has occupied so much of my space I am bound to observe that the moral philosopher, the physiologist, and the psychologist must each be consulted before we can realise its full meaning and significance. The new-born infant begins its education with its first breath. It has to form and perfect its sensations by repetitions and experiences. It cannot walk without many efforts, each of which must require memory, the gift of the improved organisation of the race. It cannot acquire complete visual powers without

memory of what is first presented to the retinal nerve. By the help of its sense organs it acquires ideas which are images of past events, and by the help of ideas it learns to think. Objects presented to any one of the organs of sense, without the activity of memory, could only create indistinct and confused images. Since sensation precedes thought and intellectual action, the knowledge of the child is entirely objective, being acquired from nature and life around it. This, then, is the period for perceptive teaching—for storing the mind with objective knowledge. But desires arise out of vital conditions, inciting to repair the waste and effect the changes of the tissues which commence with life itself; and the desire or appetite for food stimulates the exercise of the faculties necessary to procure it. Our first education is thus acquired in the pursuit and attainment of food for the body, and mental desires follow. The savage of Fiji and the Red Indian are limited in their desires by the necessities of their race and condition. Their children begin their learning by observing the acts of their parents and tribal companions. They ascertain what is valued by the adults around them, such as warlike prowess, skill in hunting and fishing, and love of adornment. Moral sentiments grow out of the physical conditions of the savage. And so of the cultivated races of civilisation. The same instincts guide the child of fashion, only its inherited capacities for improvement are greater; its impulses and inducements are greater, because it comes

into a world of greater complexity and greater variety. Hence its desires at length become aspirations—ambitions, emulations, love of approbation, all of them the growth of physical antecedents and arising out of self-love—govern the struggle for existence, and serve to form the moral character and the higher education of civilisation with its attendant strengthening of the intellectual powers; and there is created with the craving for knowledge a love of the fine arts. A youth sees a beautiful statue from the chisel of Michael Angelo, and straightway his desire is kindled to produce the like. He sees a painting by some master of the art, and a similiar feeling comes into play. Here, then, we may learn that none but good and useful images should be presented to the enquiring mind of the child; that none but superior models should be placed before his craving appetites. Truth, in short, if it be known, should alone be made the basis of education. And here I close the subject, and with it the present chapter, although the material events that make this period of our colonial history one of enduring importance are yet to be recorded. They include the opening of the River Murray to steam navigation, the defensive measures consequent on the Russian war, and the Parliament Bill of 1853, which of themselves will require a chapter.

CHAPTER III.

Continuation of the rule of Sir Henry Young—His voyage up the River Murray, and the opening of the river navigation to steam-boats—The Crimean war of 1854—Defensive measures prepared—Volunteer Military Force Act—Militia Act—Enrolment of volunteer militia—Review on May 24th, 1855—Cost of the defensive measures from 1854 to 1867—Death of the Emperor Nicholas followed by peace—The colony receives a gift of 2,000 rifles from the Government—2,000 volunteers enrol for training and discipline—Review on June 20th, 1860—Lady MacDonnell attends the review, accompanied by the Bishops of Sydney and Melbourne—Another review on May 27th, 1863—Colonel Downes, R.A., appointed to command the Volunteer Military Force.

I HAD hoped to be able to conclude the history of the rule of Sir Henry Young in this chapter, which will begin with a short account of the opening of the River Murray to steam navigation. In attempting to describe this spirited and politic enterprise I shall derive some of my information from a pamphlet written by Captain Arthur Kinlock, the clerk of the Executive Council, who accompanied the expedition. The River Murray is now well known to Australian colonists; but it was not until the year 1830 that it was discovered by Captain Sturt, of the 39th Regiment, and found to discharge its waters into Encounter Bay, after receiving the drainage through many tributary rivers of a vast basin in the interior of New South Wales and Victoria. It may not be generally known that this intrepid explorer was rewarded by the South Australian

Legislative Council with a pension of £600 a year. He is now no more, but his bust adorns the gallery of our colonial institute. It was owing to the important discoveries of Captain Sturt that men of capital in London were induced to colonise South Australia by obtaining the authority of an Act of Parliament, in which, within limits described in the Act, all the lands were declared public lands open to purchase by British subjects on a novel system called the Wakefield system. I have in preceding chapters endeavored, though imperfectly, to trace the commencement and result of this colonisation, and in doing so have arrived at that stage in my narrative when the full advantages of the possession of this noble river were made known and appreciated.

Sir Henry Young appears as the prominent figure in opening the River Murray to navigation, and although his expedition was not attended with dangers like those surmounted by the original discoverers of the Murray, he was actuated by the hope and expectation that it would confer great benefits on his countrymen in South Australia by opening up a passage to the interior of New South Wales, through which the lords of the sheep pastures, then struggling with the difficulties and costs of long overland journeys to reach a convenient port of shipment, might be encouraged to use the water communication of the River Murray for the transport of their wool through South Australian territory, and derive their supplies through the same channel. The

trade supported by the River Murray, which flows for a great part of its lower course through our territory, promised a large field for commercial enterprise, which is now being realised and the benefits of which are yearly expanding. The Legislative Council had been deeply impressed with the importance of securing this traffic before it might be diverted to Melbourne through railway communication, which was seen to be probable, and accordingly encouraged the enterprise by a vote of £4,000, to be paid to the owners of the first and second iron steamboats of not less than 40 horse-power, which should succeed in navigating the Murray from the Goolwa, near its mouth, to at least the junction of the Darling River. A vessel answering the conditions required by the South Australian Government was obtained by Captain Francis Cadell, and navigated round from Sydney in July, 1853, by Mr. Davidson, formerly master of the *Hawk* schooner. She was then pushed through the sea mouth of the Murray by Captain Cadell, an intrepid seaman, who had once commanded the *Cleopatra*, a steamer of 1,500 tons. It may serve to satisfy curiosity in the future to give the dimensions of a vessel which time, experience, and the development of an increasing trade will improve upon:—The extreme length on deck of the *Lady Augusta*—so-called after *Lady Young*—was 105 feet; extreme length of keel 98 feet 6 inches; depth of hold, 5 feet 6 inches; breadth of beam, 12 feet; on the crossguards, 21 feet, The cost was about £5,000. The engines, furnished

from Sydney, were of 20 horse-power each, and of best workmanship. The total tonnage, including engines, which weighed thirty tons, was ninety-one tons. She drew three feet water when full, and two feet four inches when light. A small vessel of about 100 tons capacity, called the *Eureka*, was built at the Goolwa to accompany the *Lady Augusta* as a lighter. On August 25th, 1853, all preparations being completed, the expedition, under the immediate command of Captain Cadell, steamed off from the Goolwa jetty, having nineteen passengers, some of them of the fair sex; being families connected with the gentlemen who took a deep interest in the expedition. The passengers were:—His Excellency Sir H. E. F. Young, Lieut.-Governor; J. Grainger, Esq., M.L.C.; W. Younghusband, Esq., M.L.C.; R. Davenport, Esq., M.L.C.; A. Kinlock, Esq., clerk Executive Council; G. Palmer, Esq., jun., Indian Civil Service; G. Mason, Esq., sub-protector of aborigines; E. W. Andrews, Esq., *S.A. Register*; B. T. N. Finnis, Esq., jun., eldest son of the Colonial Secretary; James Allen, Esq., Regd. Bright, Esq., H. Jamieson, Esq., of Mildura (joined up the river); Mrs. B. T. Finnis, Mrs. Younghusband, Mrs. Irvine, Miss Sarah Younghusband, Miss Eliza Younghusband, Miss Louisa Younghusband, Isabella Williamson. I have recorded the names of the passengers by the *Lady Augusta* because great importance was attached to the enterprise at the time—an importance which continually gathers strength with the yearly increasing value of the trade.

It was an enthusiastic effort to bring to public notice and develop the great natural resources of the basin from which the waters of the River Murray are collected, shared in by many persons, some of them among the original pioneers and their families, with ladies who gave up the comforts and conveniences of their homes for many tedious weeks, actuated by no motive but that of being associated in the future with the honor of an undertaking from which such great public results would ultimately flow.

The colony was not yet seventeen years old, and the energy which had led the early settlers to leave a civilised country and brave the perils and dangers of the wilderness was still a moving impulse in this expedition, since the young generation had not yet attained adult age, and the vigor and enterprise that had prompted the colonisation of South Australia were still manifested in the public spirit, which, derived from the old country, was yet flourishing in the new land of their adoption. The love of adventure is specially blended with the love of approbation. Men of vigorous physical nature seek it in individual deeds of prowess or in acts requiring unusual courage or endurance. Those of high intellectual attainments, usually found associated with lofty aspirations, seek fame in peaceful fields and in mental display. Both are useful to mankind, and it is by this standard of usefulness alone that the actions of the explorer, of the statesmen, of the men of science and of art must

be tested. We have seen such men amongst us—Sturt, Eyre, Stnart, Warburton, and McKinlay, who led exploring expeditions into the interior. But this love of fame, whether physically or mentally displayed, is rather an individual than a social virtue, since it is not found in communities as a body. In some natures it leads men to peril life and fortune under the incentive alone of renown, unmixed with any desire or prospect of pecuniary gain. To have their names associated with great discoveries and great enterprises is all the reward they covet; and no community expecting to ennoble itself or rise to a high standard of civilisation can wisely discourage the services of such persons. If successful, and results flow from their efforts leading to the profit of the many, they ought to be rewarded in such a way as to stimulate and encourage the rising generation to emulate them. In this spirit I have mentioned the names of the passengers by the *Lady Augusta* in her voyage up the River Murray in 1853.

When the *Lady Augusta*, having the barge *Eureka* in tow, steamed off from the Goolwa jetty on August 25th, 1853, about three hundred persons assembled to express their sympathy with the undertaking. It was a day of intense excitement. The account of her voyage has been given, as I before stated, in a pamphlet by the Clerk of the Executive Council, and is no doubt amply described in the columns of the daily press; yet the history of South Australia would

not be complete unless mention were made of this important expedition connected as it was, and has been, with the general course of events that in successive order and interdependence contributed to the development of the colony such as we now find it. But I shall limit my narrative to results and avoid details. After 168 hours steaming Captain Cadell succeeded in reaching the Darling River at its confluence with the Murray, the distance being about 650 miles from the starting point. Seven stations were passed in this distance, occupied by Messrs. Mason, Walsh, Scott, Chambers, Wigley, Chapman, Jacksons' (brothers), and McLeod. The latter had then established a public-house or hotel at the junction, where now the important town of Wentworth marks the progress of settlement on the Murray. These were the original band of squatters who had settled themselves with their sheep and cattle on pasture lands called runs, rented from the Government. On September 7th, the expedition left McLeod's, proceeding up the river, passing successively the stations of Messrs. Jamieson, Williams, McGrath Brothers, Keane, and Orrs until they reached Euston, a township in which a gentleman named Cole was located as Commissioner of Crown Lands in the service of New South Wales. I should not omit to mention here that Mr. Cole had a party of mounted police under his orders, but I find it stated that although these men received 5s. 6d. a day and rations, the authorised number was

not complete, as men were unwilling at that time to engage in so distant a service. A postal service had been established for a time between this township and Sydney. I learn from Captain Kinlock that the runs in this back country of New South Wales at one time were leased with right of purchase at 20s. per acre. The rent was proportioned to the carrying capabilities of the run, and a half-yearly assessment was levied on all stock, amounting to $\frac{1}{2}$ d. each sheep, $1\frac{1}{2}$ d. for cattle, and 3d. for horses. The cattle and sheep were boiled down, and the fat and skins only exported, on account of the low price of mutton and beef, until the rise in the price of mutton and wool owing to the increased European demand. It was this system of leasing the runs with a right of purchase that contributed to the growth of a powerful landed aristocracy in New South Wales, whose estates at the present day may be compared in magnitude to principalities in Germany, and in the Europe of the middle ages.

On September 17th the *Lady Augusta* reached Swan Hill, in the province of Victoria in 112 hours steaming from the Darling junction, the distance being about 600 miles. Swan Hill is situated on the Loddon, near its confluence with the River Murray. It is said to be about 119 feet above the level of the sea, and is about 210 miles from Melbourne overland. Since that date a railway from Melbourne connects the Murray at Echuca with that capital, a contingency which was expected and somewhat feared by South

Australian merchants as a means of diverting a great portion of the Murray trade to that capital. Whether their fears have been justified by results does not fall within the compass of my narrative. On September 17th the *Lady Augusta* arrived at Mr. Campbell's station on the Loddon. The station is called Gannewarra, and depastures 4,000 or 5,000 head of cattle and 10,000 sheep, the property of Mr. Campbell, who had been in the Colony of Victoria about eleven years. This incident is alluded to in order that an idea may be formed of the time within which large properties were then acquired by men who pushed boldly into the desert and devoted their capital and enterprise to the breeding of stock on what are termed the waste lands of the Crown, that is lands which have not been sold or permanently disposed of. The station of Gannewarra formed the limit of the voyage of the *Lady Augusta*, and was estimated at about 1,400 miles from the sea mouth of the Murray. I have not given the names of the settlers beyond the junction of the Darling, because they formed no part of the band of South Australian pioneers who had occupied the banks of the Murray to the limits of this colony in 1853, although they all expressed a deep interest in the expedition, and expressed their appreciation of its usefulness in developing the back country of New South Wales and Victoria, by signing an address to Sir Henry Young, which was presented to him when approaching the boundaries

of South Australia, near the junction of the Darling, on his return to Adelaide in the *Lady Augusta*. The address, from proprietors of thirty-two stations in New South Wales and Victoria, was framed with the desire to convey to Sir Henry Young some record expressive of their opinions with reference to opening up of the extensive districts of the basin of the Murray by means of inland steam navigation throughout the interior of Australia. They proceeded to say, "that as the successful accomplishment so far of the first voyage of the steamer *Lady Augusta* permits us to look forward with some confidence for the future to the easy transit of goods and produce to and from South Australia by means of steam navigation, we may here perhaps not improperly retrospectively allude to the difficulties and tedious delays we have all for so many years encountered in reaching a market for our produce; and in doing so we are unwilling to forego the pleasure of assuring your Excellency that we shall ever look back with satisfaction to the time when—in these remote parts of the colony, and surrounded by many discouraging circumstances—we had in the year 1850 the strongest proofs afforded to us of the interests in the Murray and its navigation by finding your Excellency undertake and accomplish, at considerable personal exertion and inconvenience, a voyage of exploration in an open boat from the junction of the Darling with the Murray to the Goolwa. We would only further beg to express to

your Excellency that we recognise with much satisfaction the permanent honor which in after years must attach to you for having so successfully aided the accomplishment of the Murray navigation; and we would offer you our cordial expression of hope, that whether you may be resident in this or in any other and more distant parts of the world, you may for many future years learn with equal interest the permanently beneficial results of the Murray navigation, convinced as we are that these results will prove highly important, not only to the best interests of your own province and to the Australian provinces generally, but also to England and other parts of the world—affecting, as they most indisputably will do, thousands of the population who may in future years make choice of Australia as the land of their adoption.” To this address Sir Henry Young replied :—“ Gentlemen—I have the honor to acknowledge and to thank you for the address which you have presented to me. The steam navigation of the great River Murray and its tributaries, of which this voyage has been the auspicious commencement, is an object of such general and permanent importance that had any exertions to promote its prosecution been wanting on my part I should have considered the omission a dereliction of my duty. It is a great satisfaction to me that you have appreciated the utility of the enterprise, and have been enabled to witness its accomplishment. My earnest hope and belief are that it will realise for the

future all the great and permanent advantages which are so reasonably to be anticipated. I feel highly honored by the obliging terms in which you have expressed yourselves in regard to myself personally."

Captain Cadell, the commander of the expedition, came in for his share of notice by the gentlemen who addressed Sir Henry Young, in a letter of which I will quote a few paragraphs. They say:—"Whilst we recognise with satisfaction the enterprising spirit you have displayed in carrying out so successfully the establishment of this important undertaking in the midst of difficulties of no ordinary description, consequent upon the vast and unknown changes which have arisen from the gold discoveries throughout Australia, we beg to assure you that we feel it alike a duty and a pleasure on the present occasion to take this, the very earliest opportunity, to intimate to you that a certain sum of money has been equally subscribed by us for the purpose of being applied in any manner most agreeable to yourself in the acquisition of some memorial of your first steam voyage on the River Murray. You are aware of the extreme distances at which our respective stations are situated, and the consequent difficulty of our waiting upon you and ascertaining personally when and where it would be most suitable to you for the presentation of the testimonial to take place. We shall therefore feel much indebted by your communicating your wishes on this subject to the hon. secretary at your earliest

convenience." This letter was signed by the same gentlemen who had addressed the Lieutenant-Governor. On the return voyage Captain Cadell picked up several bales of wool, which were prepared for shipment, and completed the voyage home to the Goolwa on October 14th, 1853. The total cargo of wool consisted of 441 bales, averaging 300 lbs. each in weight. The value of the river trade at the date of the first voyage of the *Lady Augusta* was estimated by Mr. Jamieson, of Mildura, who, in an appendix to Captain Kinlock's pamphlet, gives the number of sheep as far as Swan Hill, and including those on the runs of the Darling, ready to be shorn in 1853, as amounting to 460,000; and if all the stations on the various tributaries of the Murray be added, quoting the same authority, 540,000 more can be summed up, making a grand total of about a million of sheep, the wool from which would be brought down the river to be embarked in sea-going ships in South Australia, if facilities for the river navigation were open to them.

The difficulties in the way of realising the full advantages of this trade arose first from the sinuosities of the river, which, like all rivers flowing through a long expanse of level country, are numerous and perplexing, affecting the nature of the boats to be employed, owing to the sharp turns at the angles of curvature and the shoalness of the water in places, which then and for all time will prevent the employment of vessels of a draught of water suitable for the

river and also capable of navigating the ocean for long voyages ; and lastly, the impracticability for commercial purposes of any entrance to the river by its sea mouth. Various attempts have been made to force small craft through the passage, and various plans have been suggested to remove the difficulties attending the navigation of the sea mouth. In the year 1837 Captain Blenkinsop, the master of a whaling station at Encounter Bay, accompanied by Sir John Jeffcote, the first judge of South Australia, attempted the passage of the sea mouth in an open boat, and both perished in the attempt. Captain Sturt afterwards made a similar attempt, but after waiting for a favorable opportunity abandoned the enterprise. Captain Pullen, now a distinguished admiral in the royal navy, was more fortunate. In a little cutter of thirty tons, called the *Water Witch*, he safely accomplished the feat and took the vessel up the river as far as Moorundee, where she soon afterwards sank. He afterwards succeeded in buoying out the channel and surveyed a harbor in the deep reach between the Goolwa and the mouth of the river, which was called Port Pullen, in acknowledgment of his services on this occasion. The Murray steamers afterwards traversed the dangerous bar backward and forward on a few occasions, but the peril was too great to be continued, and the River Murray still remaining practically sealed up from the ocean. It has been suggested that an opening might be made south of the Goolwa through the sandhills to

direct the whole body of the river through a new channel; the distance between the Goolwa or Port Pullen is not more than a mile. Again, various schemes have been devised for improving the present mouth so as to render it navigable, and engineers have at different times furnished reports and estimates, but the enormous cost of work, the success of which when completed would be problematical, has hitherto been regarded as an obstacle to the undertaking. Anyone who has examined the line of coast from Port Victor inside of Granite Island could not fail to appreciate the causes which have operated to deflect the course of the last reach of the Murray to the eastward. A heavy surf, backed by a continuous flow of rollers from the Southern Ocean—for the coast line faces the south—deposits a vast accumulation of sand, showing that the sea coast is gaining on the ocean. All attempts to open a passage for the waters of the Murray, whether by its present mouth or by cutting through the sandhills, must encounter the probability of being silted up or obstructed by an ever-increasing accumulation of sand. Sir Henry Young appointed a commission to report upon the prospect of opening a communication between the River Murray and the sea at Port Elliot or at Victor Harbor. Then, as since it was considered practicable to connect the Goolwa with Victor Harbor by a canal, adapted for the passage of the steamers suited for the river navigation into Victor Harbor to discharge their cargoes into the

sea-going ships. This scheme, which would not divert the whole body of the river into the sea, but only a part of the upper current, remains to be accomplished, and when accomplished will give to South Australia the command of all the resources of the navigable waters of the Murray and its tributaries, and afford an inland outlet for an ever increasing trade of supply from South Australia to the towns and settlements in the back country of New South Wales. The only rival communication that can possibly compete with this trade is the Railway from Echuca to Melbourne. But in time it is to be presumed that the water carriage will prevail, and that it will be facilitated by shallow canals at various points cutting through the bends of the Murray, and shortening the distance.

At the time of the opening of the river to steam navigation Sir Henry Young endeavored to find an outlet for the wool by constructing a tramway from the Goolwa to Port Elliot, where it was deemed that sea going vessels could anchor in safety, especially by erecting a breakwater to connect the point of the main land with a small rocky island at a short distance from the shore. The tramway was constructed, and a commencement was made of the breakwater, but subsequently abandoned, as its completion was strenuously resisted in the Legislative Council. The cost of the tramway, about £23,000, and breakwater, was made chargeable on the land fund then under the control of the crown, without the intervention of the local

legislature, and in persisting in recommending these works for the approval of the Secretary of State Sir Henry Young encountered much unpopularity. The Port interest was here again in opposition, as every effort to connect the trade of the Murray with any outlaying port was considered damaging to the wharf proprietors at Port Adelaide. A scheme entertained in this spirit has since been carried into effect by tapping the Murray, as it is styled, by a railway in a direction to the eastward of north from the capital. A portion of this railway was constructed as far as Kapunda under the authority of an Act passed on June 27th, 1858, having been commenced by the laying down of the iron road to Gawler, authorised in December, 1854. The railway has lately been completed from Kapunda to the river Murray at the North-west bend; the distance from Adelaide to North-west Bend being rather more than 107 miles; and another line to cross the river at a point south-east of the capital is now (1883) in course of construction, intended within the next two years to reach the west boundary of the province of Victoria, and connect the two capitals, Adelaide and Melbourne. Thus the River Murray will be shortly tapped in two places, yet the importance of the water-borne traffic will not thereby be lessened, especially when an exit to the sea shall have been accomplished to enable the river steamers to lie alongside ships in Port Victor to discharge and receive their cargoes, or by opening the mouth. The

trade of the Murray, consisting at first, in 1853, of only 441 bales of wool, carried for £25 a ton, has now assumed much larger proportions, and will yet increase beyond any estimate which can be attempted at present. A million of sheep then offered a prospect of renumeration for an addition to the fleet of steamers, and I am enabled to give a statement of the present value of the import and export trade between Adelaide and the neighboring colonies, based on Government returns furnished through the Customs department, and alluded to by the Treasurer (Mr. Glyde) in his financial address to Parliament in August of this year—1883. But before I do so I must lead my readers through some of the steps by which this trade was brought to its present condition. On the return of Sir Henry Young, which he announced to the Legislative Council in a formal message on October 14th, 1853, he received the following gratifying address in reply :—

“To His Excellency Sir Henry Edward Fox Young, Knight, Lieutenant-Governor of Her Majesty’s Province of South Australia, &c.

“May it please your Excellency—

“The Legislative Council has experienced sincere gratification in the announcement made to it by your Excellency of the arrival at the Goolwa of the first river-borne wool, the produce of the vast basin of the Murray. The opening up of the navigation of the Murray has long been anxiously desired; and your Excellency’s earnest and undeviating exertions to promote that important object well deserve the warmest thanks of this Council and of the colonists of South Australia. Your Excellency’s personal superintendence of the first Practical experiment—which has resulted in demonstrating that that great river is navigable by steam for commercial purposes for at least 1,450 miles of its course—must necessarily connect the name of your

Excellency with that successful enterprise, and the Council think that so great a public service should be appropriately acknowledged. The Council therefore requests your Excellency to cause three gold medals to be engraved with suitable device and inscriptions, commemorating the auspicious opening up of the steam navigation and commerce of the Murray, and the first arrival at the Goolwa of river-borne wool. And the Council requests that—as the Lieutenant-Governor of South Australia, whose personal exertions promoted this great enterprise, and in whose administration it originated, and has been successfully accomplished—your Excellency would be pleased to receive one of the said medals. And the Council further requests that your Excellency will be pleased to cause one of the said medals to be conferred on Captain Francis Cadell, who completed the first commercial voyage as owner and commander of the *Lady Augusta*, steamer, and *Eureka*, barge, with a cargo of Murray wool, and that the remaining medal may be deposited with the records of the Legislature of South Australia, under whose sanction the necessary pecuniary aid was voted in encouragement of the system of navigation of the River Murray.

“JOHN MORPHETT, Speaker.

“Legislative Council Chamber, Adelaide,

“October 21, 1853.”

To this Sir Henry Young replied—

“Mr. Speaker and Gentlemen—I received with great gratification the address which you have presented to me. In conformity with your request I shall cause medals of South Australian gold to be struck in commemoration of the opening up of the commerce and navigation of the River Murray. I shall have great pleasure in conferring on Captain Cadell the medal by which the Lieutenant-Governor and the Council desire to distinguish him with honor, in having successfully accomplished the first commercial steam voyage on the River Murray. I concur with you in deeming this important event to be worthy of permanent record in the annals of South Australia, and I shall cause a commemorative medal to be placed conspicuously among the public archives. I shall not fail to seek Her Majesty's gracious permission to accept from the Legislative Council the honor of one of the medals for myself a memorial of the happy fortune by which I have been privileged to be a co-operator with the council in opening up the steam navigation of the River Murray, and thereby establishing a bond of commercial and social union between three prosperous colonies of Australia.

“W. E. F. YOUNG,

“Government House, October 24, 1853.”

No sooner was the practicability of navigating the waters of the Murray and its principal tributaries demonstrated than a war of tariffs commenced. Steamers could now penetrate to stations and settlements in the back country of New South Wales and Victoria, not only for the purpose of bringing down the wool for shipment in South Australia at a much cheaper rate than by drays to the ports of those colonies, but supplies could also be taken up the river and distributed among the settlers who had hitherto derived their stores from Sydney and Melbourne by an expensive land carriage. It was evident that the Murray steamers could carry goods from one colony to another; and the Customs revenue of South Australia, which colony furnished the supplies, would be increased, entailing loss to the adjacent colonies to the extent to which such goods might be dutiable there. Thus an inlet for trade liable to fiscal rates was opened up, through channels other than the seaports, which being the gates of the respective colonies afforded special facilities for the Customs duties. There was this further complication that the three colonies affected had different tariffs. Articles of commerce paying lower rates of duty in South Australia would be sold to her neighbors occupying the banks of the Murray beyond the limits of South Australia, to the loss of the Customs revenues of those colonies. It would serve no useful purpose to give a statement of the various schemes that were

suggested by the three Governments to collect the duties on imports *via* the river without unnecessarily interfering with the steamers plying up and down. The first attempt was made by Sir Henry Young, who proposed to collect all duties at the place of shipment and pay over to the other colonies their share. The discrepancy in the tariffs was the chief difficulty to overcome, and this could be met in different ways—first by collection of all duties at the Goolwa according to the rates charged in South Australia on dutiable imports, next by making the collection authorised by the other Governments on goods shipped on their respective accounts, and lastly by an assimilation of all the three tariffs either for the river navigation alone or for all imports into these colonies. The gold discoveries so richly developed in Victoria, led to the imposition of rates of duties which if adopted in South Australia would have seriously crippled her financial resources, but a correspondence between the two Governments was carried on during the early period of the rule of Sir Richard MacDonnell, before responsible Government had been established, which assumed a somewhat angry tone. Mr. Childers, in a memorandum on behalf of Victoria, complained that in correspondence dated October 11th, 1855, to the Colonial Secretary, New South Wales, and December 5th, 1855, copies of which had been sent to Victoria, the expressions used were so precise as to leave no doubt at the time in the mind of the Govern-

ment of Victoria that a distinct pledge was given by Sir Richard MacDonnell that authority should be given by the South Australian legislature to the Executive Government to authorise its collectors up the Murray to levy on goods destined either for New South Wales or Victoria such duties as the respective Governments of those colonies might from time to time signify their wish to impose. Sir Richard introduced a Bill into the Legislative Council intended to give effect to this promised arrangement, but his views were defeated by the rejection or alteration of that Bill in the Legislative Council, who, on March 5th, 1856, passed an Act in which it was explicitly provided that all duties collected by the South Australian Government should be on the scale of its own tariff and on no other. In forwarding a copy of that Act to the Victorian Government no express mention was made of the fact that it failed to confirm the principle for which Sir Richard MacDonnell had contended, but merely stated in courteous terms the expression of Sir Richard's "hope that the Victorian Government would consider the Bill as affording the necessary facilities for a final and satisfactory settlement" of the question. Mr. Childers' memorandum formed the enclosure to a letter of February 9th, 1857, from the Chief Secretary of Victoria to the Government of South Australia, and was severely commented on by Sir Richard, who directed the Chief Secretary "to express His Excellency's surprise at

many statements therein contained," &c., &c., &c., and to add that it was no less due to His Excellency than necessary to the maintenance of courteous correspondence between the Governments of the two colonies that the Government of Victoria should express their disavowal of any intention to charge this Government with the retraction of any pledge. Sir Richard MacDonnell had really consented to settle the question of the Murray duties by collecting them according to the separate tariffs of the three colonies, which policy was disavowed by the South Australian Legislative Council then in existence, to whom the question had been deferred. It is worthy of notice that this angry correspondence commenced when the Governor was supreme in the Executive Council, and in the direction of affairs; and unfortunately was suffered to extend into the period of responsible government, much to the embarrassment of the first Ministry, with whose views it conflicted, and who having been appointed on October 24th, 1856, could not consult the new Parliament until it was called together after the elections on April 22nd, 1857. I shall have occasion to refer further to this crisis in the history of responsible government on a future occasion when discussing the acts of Sir Richard MacDonnell. My task at present is to draw attention to the Murray navigation.

A measure embodying the views of the first responsible Ministry was subsequently introduced in

the House of Assembly by the Treasurer, Mr. R. R. Torrens, who had accepted office under the Premiership of Mr. B. T. Finniss, the Chief Secretary. It was read a first time on May 26th, 1857. On the 29th of the same month the Treasurer moved the second reading of this Bill "to regulate the collection and distribution of duties upon goods intended for consumption in the colonies of New South Wales and Victoria carried by way of the River Murray." The Bill was largely discussed, and became law on November 19th, 1857, under a change of administration, Mr. William Younghusband being Chief Secretary, and Mr. John Hart, Treasurer. The remaining members of the Ministry were—Mr. R. D. Hanson, Attorney-General; Thomas Reynolds, Commissioner of Public Works; Francis S. Dutton, Commissioner of Crown Lands. The Treasurer (Mr. Torrens) informed the House of Assembly that the Government had agreed to a conference to consist of delegates from each of the colonies interested in the navigation of the Murray. This step had become necessary to remove the misunderstanding which had arisen under the late Government, in the course of which the Victorian authorities had hinted in correspondence that it might be necessary to impose tonnage duties and licences on boats passing the Victorian limits. In the tariff prepared with the Bill before the House the Government endeavored to assimilate the tariff of South Australia to those of New South Wales and Victoria

as far as was consistent with the conditions, habits, and necessities of the inhabitants, which must necessarily vary in the several colonies, especially under the operation of the gold discoveries, which had created a new scale of living and new means for improving the financial condition of Victoria. It would be considered (the Treasurer said) a *sine qua non* at the conference, to place the necessary articles of food—say potatoes, corn, meal, flour, vegetables, and green fruits upon the free list. Upon tobacco, tea, sugar, coffee, and such articles, South Australia was willing to increase the duties, so as to meet the tariff of the other colonies half way. On comparing the tariffs of the three colonies, it had been found that taking the rate furnished by the returns for the year 1855 the loss to South Australia by assimilating her tariff to the scale proposed in the other colonies would be 13 per cent. The Bill contained a clause authorising the receipt here of the duties claimable by the other colonies. This principle had been rejected by the late Legislative Council, who objected to our officers acting as agents for the other colonies, and this had been the occasion of all the difficulty which had arisen in carrying on the river traffic. The costs of collection would be charged to the other colonies at the rates of 5 per cent. for Victoria, and 6 per cent. for New South Wales, which rate these two colonies were paying at the time of the Act, as was stated in the House of Assembly on November 17th, 1857, by

the Treasurer (Mr Hart) during the premiership of Mr. Younghusband, who had succeeded to office on September 30th. The collection of duties on the Murray trade was a subject of constant correspondence, and conferences of delegates had frequent meetings to arrange the conditions. The latest principle agreed to by the Governments of New South Wales and South Australia was settled by the Ministry of Sir Henry Ayers on April 19th, 1877, with the object of avoiding the actual collection of duties on goods imported from one colony to the other by way of the River Murray, or across the boundary between the respective colonies, by the payment of a fixed sum of money by each colony to represent the amount of duties received by each. Under this arrangement, which was to last for three years, commencing on December 16th, 1876, the Government of South Australia received in money value the sum of £52,481 12s. 10d., whilst South Australia paid to New South Wales the sum of £112,916 13s. 4d. The advantage to South Australia of this convention was, that in addition to the actual money received her staple produce dutiable in New South Wales was admitted there free; the duties on staple goods being £9,823 10s. 6d., and, moreover, goods which had paid duty to the South Australian exchequer to the amount of £76,931 7s. 10d. were also admitted free into New South Wales. The gain to the South Australian revenue during the three years was thus £16,496 7s. 4d., being the difference between

the money paid by each Government respectively. The £9,823 10s. 6d. representing the dutiable amount of the value of the staple produce of South Australia consumed in New South Wales and admitted there duty free, although otherwise liable to duty under the tariff of New South Wales, was the gain not to the revenue, but to the merchant, and so acted as a stimulus to production and trade. When this convention expired, the Ministry of Mr. William Morgan, acting on the basis of the principle already established, entered on another arrangement commencing on January 11th, 1881, which, assuming the increasing trade, increased the payment by South Australia to £47,500 annually, instead of £35,000 under the expired agreement, as a composition for the duties claimable by New South Wales, leaving the trade of the river free from Custom-house interference. This convention confirmed the right to the free trade between both colonies as respected goods of all kinds, including live stock, whether water-borne or across the boundary. It made an exception, however, with regard to tobacco grown in either colony respectively and exported to the other. The effect of this present arrangement for the two years and a half ended July 10th, 1883, as gathered from the returns in appendices to Mr. Glyde's financial speech on July 26th, 1883, has been that the South Australian revenue was credited with £91,281 as the sum of the duties collected on goods consumed in New South Wales and

imported by her from South Australia; and the merchant has added to his profits of the trade up the river on staple produce of South Australia admitted duty free, the sum of duties otherwise leviabie in New South Wales, which would have amounted, if collected, to £11,442. For these privileges and receipts, valued at £102,723, the South Australian Government has paid to New South Wales £118,750. The duty that New South Wales could have collected on all goods except for the convention would have been £103,035.

But arrangements and conventions respecting duties of Customs are not so important as the value of the trade of a country, which is only partially indicated by the Customs receipts. The wealth of a country consists in the wealth of the community as a whole, not of the exchequer. Whether South Australia gains or loses fiscally by the Murray trade, her real gain depends on the profits of her trade, and these are mainly due to the extent of that trade which unwise taxation may derange by restraining or prohibiting production and enterprise. The effect of the trade of the River Murray upon our revenue has hitherto been the chief point dwelt upon. But there are other considerations which are equally if not more important. Amongst others we are entitled to ascertain, if possible, whether the sanguine expectations at first formed of the extension and benefits to commerce of the navigation of the Murray have been realised, and

are likely to increase in the future. I am able to give some proofs of the extent of this trade by quoting Mr. William Younghusband as my authority for a certain period; and that he was a reliable witness will be apparent when I state that he was a leading member of the firm that accomplished and continued the use of the Murray steamers. Mr. Younghusband in May, 1857, stated in the Legislative Council that during the first season, 1853-4, there were taken up the river 276 tons of goods, and 1,362 bales of wool were brought down, the whole valued at £25,000. In the second season, 1854-5, 365 tons of goods were taken up, and 3,009 bales of wool brought down, valued at £35,000. During the third season, 1855-6, there were 700 tons of goods taken up, and 2,700 bales of wool brought down, value £50,000. And in the fourth season, 1856-7, when the trade to the Ovens diggings commenced and there were three more steamers on the river, 3,629 tons of goods were carried up, and 2,370 bales of wool were brought down; the whole trade being valued at £247,000 for that season. That the trade continues to increase is apparent from returns obtained from the Treasury department. The export trade to New South Wales for the year 1882 included in the period ended January 10th, 1883, was valued at £351,966; and the value of the imports into South Australia from New South Wales, *via* the Murray, amounted to £837,704 for the same year (1882), made up to December. Thus the imports and

exports of the Murray trade in 1856, valued at £247,000, had increased in the year 1883 to £1,189,670. It must, however, be added that the wool brought down the Murray was valuable to South Australia only for the value of the carrying trade, and formed no part of the value of the exports proper from South Australia, and paid no duties in its transit. The real advantage to South Australia is in the value of the goods the produce of South Australia sent up the Murray for consumption in New South Wales and Victoria; and in the same way it must be had in view that goods sent up the Murray after having paid duty in South Australia, are goods on which duty has to be refunded and paid to New South Wales or compounded for, and therefore enter into a portion of the trade, valuable, not as regards revenue, but as furnishing an additional market for our merchants, and profitable only to them and the owners of steamboats on the river. The net profits of trade of course form an addition to the wealth of the community as a whole. I had no expectation that the Murray navigation question would have extended this chapter to its present length. But as the subject is one of vast importance, and will be mixed up with the future progress of South Australia to an extent which it would be rash now to speculate on, but which is inevitable, I have placed it in these pages in such a shape as I trust will be intelligible and acceptable as a historical document. And in going into much detail,

I have been anxious to give the rise and progress of the commerce of the river from its very commencement; so that when South Australia forms one of a group of great states, which must come to pass, the future historian may not have to grope his way in the dark through folios of statistical records, but have an account to rely on—not written as an advertisement to exaggerate the importance of the colony with a view to special objects, but in the spirit of impartiality, after a careful study of documents and memories still within reach, but destined to be lost sight of in the future, obscured by the shade of the time spirit.

When in the year 1836 Captain Hindmarsh, the first Governor of South Australia, landed, he was accompanied by a small party of the Royal Marines, a sergeant's guard in fact; and as there were no police, this was the only armed force at the disposal of the colonial Government to preserve order and to provide for defence against hostile attack. England was at peace with all the great powers, and there seemed but little probability of war. Events justified the feeling of security, which so long an interval of immunity had engendered in the public mind, and it was not until after a period of nearly forty years, dating from the peace of Paris in 1815, that this harmony of nations was disturbed. A generation had passed away, and so great had become the faith of Englishmen in the continued prevalence of peace throughout Europe

that it was difficult to rouse public opinion to a sense of danger, when the movements of Russia threatened to disturb the security of nations. In the colonies, especially, the power of the British fleet and the prestige of the British flag were so completely established to the public mind that all alike felt safe under the shadow of the mighty ægis thus spread over them; and any one who might have ventured to suggest measures of defence against the possibilities of war would have been regarded as little short of being a maniac. No defensive forces were maintained in the Australasian group of settlements by the British Government, except on a scale deemed necessary to support the cause of order in the several Crown colonies and maintain the supremacy of British rule. On the withdrawal of the small party of marines which formed the bodyguard of Governor Hindmarsh, small detachments of troops relieved them, consisting usually of two companies under a field officer—the 99th regiment, the 40th regiment, the 96th regiment, and the 11th regiment, having their head-quarters stationed in the older colonies, from time to time furnished these detachments. South Australia had no other military force, not even a militia, although Colonel Gawler made the attempt to excite military ardor to an extent sufficient to induce men to volunteer their services under such a designation. But his scheme fell through, and he never went the length of organising a militia under the authority of an act of the Legis-

lature. This result shows how little the colonists of South Australia admitted the possibilities of war, and how completely they relied on the protection of the mother country under any such contingency. The military ardor of South Australians was centered in the police force, and its battles were limited to encountering bushrangers from the old convict colonies and contests with the aboriginal inhabitants.

But the dream of peace was suddenly disturbed. In the year 1854 the colonists of South Australia were startled by the news that England, in alliance with France, had declared war against the Emperor of Russia in a manifesto published in March, 1854. The chief Australian colonies were at this time rejoicing in the wealth of the newly-discovered goldfields; they had begun to feel that they had something to lose now that was worth defending. Not only had the colonies become objects worth a predatory attack, but population, attracted by the tales of illimitable riches to be dug out of the surface with but little occasion for the employment of extraneous capital, had suddenly increased, especially within the Victorian border. South Australia from a small community of only 546 persons in 1836, had in 1854 developed into a settlement with nearly 100,000 inhabitants. She had a trade of £3,469,929, employing 947 vessels during the year, of an aggregate tonnage of 290,534 tons, and she was producing and exporting goods to the value of at least £694,000 raised from her own

soil. Her banking establishments reckoned their united property at the value of £1,717,457. She had 10,000 horses depasturing on her runs, and 1,768,724 sheep, besides horned cattle. At the same time the revenue receipts of South Australia amounted to £595,356. Here was something to tempt the cupidity of a foe ; and here was something worth defending.

At the date of the commencement of the war with Russia arms of precision had not come into general use. Rifled cannon were first used at Solferino, by France, in the Austrian war carried on in Italy by Louis Napoleon. The Minie rifle was first used in the British army by the Guards at the battle of Alma ; whilst the still more modern improvements of breech-loading cannon and small arms, with central fire and percussion locks, were reserved for the German and French war in 1870. In 1854, when South Australia began preparations for defence, the musket known as Brown Bess, with flint locks, formed the armament of the great body of the British infantry, and the effective range of musketry could not be depended on beyond a distance of 100 yards. Now the effective range of the Martini-Henry rifle extends to 1,000 yards, whilst its power for mischief is scarcely limited to 1,500 yards. The smooth-bore field pieces of the artillery and the 68-pounder naval guns used at Navarino and in the Russian war, gave place in about the year 1870 to field artillery known as the twelve-pounder breech-loading rifled gun of eight hundred-

weight, and carrying a segment shell of $11\frac{1}{2}$ lbs., having a maximum range of 4,000 yards, and to naval guns of twelve inches calibre, carrying a common shell of 495 lbs. a similar distance. Improvements of later date have increased the power of field artillery beyond even what I have stated, and we read of 80-ton naval guns carried by H.M.S. *Inflexible*; whilst not to be outdone the Italians constructed four war ships carrying 100-ton guns. We seem not yet to have attained the greatest effect in the art of attack and defence by sea and land. I have gone into these apparently irrelevant details to show how simple, comparatively speaking, it appeared to the colonies in 1854 to prepare their means of defence, and with what imperfect weapons they commenced their defensive preparations.

On receipt of the war news Sir Henry Young took steps to call the Legislative Council together, and in the meantime prepared measures for their consideration adapted to meet the emergency and suited to the condition of the colony. Mr. Boyle Travers Finniss, the Colonial Secretary, on May 15th, 1854, laid the following memorandum before the Lieutenant-Governor:—

“Mr. Hanson thinks that we should at once take steps to fill up vacancies in the Legislative Council in order to meet a full House with any defensive measures when the official notice of war arrives. I think a commission, to consist of Major Moore, Captain Freeling, Captain Lipson, and Mr. Dashwood, should immediately be appointed to report upon the best measures to be taken with the means at present procurable or available, to protect Port Adelaide against an enemy's privateer or man-of-war in case of surprise; also to guard against such

a surprise. After reporting upon this the commission should report upon the best mode of procuring intelligence of the presence of an enemy in our waters. (A marginal note by Sir Henry Young suggests 'telegraph from Cape Borda, Kangaroo Island.') A board, to consist of Major Moore (if he will consent), the Commissioner of Police, and the colonial storekeeper, with such assistance from the non-commissioned officers of the 11th Regiment as Major Moore may please to employ, to be appointed to inspect all the arms, great and small, in possession of the Government, and not being already in use by the police; also the ammunition: to make a return accordingly of the quantity and state, distinguishing arms and ammunition in a serviceable state from such as may be in need of repair or be damaged. I am proceeding with a minute to lay before the Executive Council to prepare for the enrolment of a yeomanry corps—a troop of horse artillery and a militia force. It would be prudent and justifiable to order the Police Commissioner to reduce the police outposts so as to retain at headquarters as large a body of the mounted police as possible to be trained to the service of the field artillery."

A minute of Sir Henry Young approves and authorises these suggestions.

Acting on the suggestions made in Executive Council, a commission, consisting of Major Moore (of the 11th regiment, commanding in South Australia), Captain Freeling, R.E., and Captain Lipson, R.N., was on May 17th appointed by the Lieutenant-Governor "to enquire into and report upon certain precautionary measures of defence to be taken for the public safety in the event of a declaration of war." (The official declaration of war had not then arrived.)

The committee met on May 20th at Port Adelaide, and reported on the 27th of the same month. They recommended:—Firstly: The presence of an armed screw steam-vessel in St. Vincent's Gulf, properly manned and officered, of about 400 tons measurement, to carry about ten guns, and to draw not more than 12

feet of water, and to be provided with a complement of officers and men amounting in number to 120. This recommendation to be communicated to the senior naval officer on the station, who they conceived would be competent to detach from his ship such officers as would be required for the command and management of such a vessel. The commission further recommended that an officer dispatched from South Australia on this service should be authorised, with the concurrence of the senior-officer of the station, to purchase a suitable vessel with the necessary armament and stores, the vessel to be manned by the officer appointed to command, and the expense to be defrayed by the Government of South Australia. Secondly: The establishment of a chain of semaphore stations, commencing at Cape Borda, Kangaroo Island, continuing along the northern shore of that island, crossing Backstairs Passage, opposite Cape Jervis, to the main land, and communicating thence along the eastern shore of Gulf St. Vincent, to Adelaide, the Port, and the lightship. The semaphores to be provided with both day and night signals. Thirdly: The military force of regulars to be increased to two companies, or in the event of the General commanding not being able to supply the additional company, that the present detachment be immediately made up to 100 men, the strength originally sanctioned—the detachment at present numbering only about forty. Fourthly: That a Port militia be embodied, to be

drafted from the Port, Alberton, Queenstown, and their immediate vicinities. Fifthly : That a proper force be instructed in artillery drill and practice, and that measures be taken to ensure the bringing into position the artillery and mortars at present in the colony to any point menaced, and within as short a time as possible. Sixthly : That the exposed coast between Marino and the northern end of Lefevre's Peninsula be watched by mounted patrols. Seventhly : That landing-places be appointed in the Port of Adelaide, at which all shore boats shall be moored between the hours of 9 p.m. and daylight, and that no shore boats be moved therefrom during these times except by permission of some competent authority. Eighthly : That a boom be constructed, to be stretched across some eligible part of the Port Adelaide Creek, below the shipping, of sufficient strength to resist a boat attack ; the boom to be so placed that a close fire of musketry can be brought to bear on boats attempting to force it. Lastly : The commission remarked that although they have by no means overlooked the importance of a battery on Torrens Island to defend the Port against an attack either by ships or boats through Light's Passage, yet as they are informed that such a battery should be made self-defensible, and would be a work of considerable expense, taking much time in erection, they are of opinion that such a means of defence would more properly come under the consideration and execution

of the Imperial Government. This report was signed by the three commissioners.

It is to be observed that at this date, in the year 1854, South Australia was a Crown colony, and therefore under the special protection of the home country; that the use of rifled small arms had been but partially adopted in European troops; that smooth-bore artillery were still the only guns used by sea and land; and that the sixty-eight pounder sea gun was only partially in use; so that it was not necessary to provide against the contingency of the shelling of the Port from the outside, since the distance was beyond the reach of guns of war vessels as then armed, and that the electric telegraph was scarcely then generally adopted, and was quite a novelty in South Australia. Under such circumstances Sir Henry Young summoned the Legislative Council and consulted them on the measures of defence which he was prepared to recommend. The Legislative Council accordingly met on August 2nd. The Government on the first news of the war had proposed to arm 1,000 volunteers, and made an application to the Home Government to be supplied with 2,000 Minie rifles, which had been proved to be the most formidable weapon in use by the armies of Europe.

In the meantime the Colonial Secretary (Mr. B. T. Finnis) was appointed Lieutenant-Colonel of the staff and inspecting field officer under the authority of an Act of the legislature passed on September 14th, 1854;

and a staff-adjutant (Captain Biggs, late of the 49th Regiment) and drill-instructors were also appointed to assist in the organisation and drill of an armed body of volunteers, which it was now proposed to raise to the number of 2,000 men. The sum of £15,000 was voted in a supplementary estimate to meet the cost of these defensive preparations. Before the prorogation on December 16th a Militia Bill also was passed, in order to enable the Government to provide for the enrolment of the able-bodied of the population in case the call to arms by voluntary enlistment proved a failure. But no such necessity arose, and the Militia Act has remained in abeyance to this day. Major Moore, of the 11th Regiment, as senior military commandant of Her Majesty's troops in South Australia, undertook the organisation and drilling of several companies of volunteers, and so successful was the movement that on May 24th in the following year he succeeded in getting together a body of men in review order in honor of Her Majesty's birthday. This was the first occasion on which the public had an opportunity of judging of the steps taken by the Government for the defence of the colony. The excitement was intense. Leading colonists joined the military movement: men who afterwards became members of Parliament and of Ministries, men of substance, proprietors of the principle trading establishments in the city, served as privates in the first muster of a South Australian armed force; and

of their zeal, enthusiasm, and martial ardor there could be no doubt in the minds of those who witnessed this first passage of arms and who saw the suburban companies cheerfully submitting to the rule of drill masters. The news of Inkerman had saddened the hearts of men in this colony as elsewhere, and a feeling of awe at the terrible slaughter on that day of England's best soldiers deepened into a conviction that the madman who could count the numbers of his armies by millions might make his power felt in the remotest dependencies of Britain. The writer can personally record the effects of these dreaded calamities in the calm determination that moved all men alike in South Australia to defend their hearths and homes at all perils and all risks should necessity arise.

It was hoped that the lately appointed Governor, Sir Richard Graves MacDonnell, would be present on May 24th to encourage and sanction by his presence the military demonstration held on that day, as news had been received of his arrival in Melbourne and embarkation for the seat of his new government in ample time to admit of his attendance at the review. Preparations were made in accordance with that expectation, but his detention at sea beyond the usual period of the voyage from Melbourne left to the Acting-Governor, Lieutenant-Colonel Finmiss, who, as Colonial Secretary, and senior member of the Executive Council, in terms of royal instructions, had assumed the reins of Government on the departure of Sir Henry Young, on

December 20th, 1854, the honor of inspecting his brother colonists in arms. It appears to me, under these circumstances, that I shall best carry into effect the object I have in view in writing these pages, which is to furnish the public with the most reliable account of the origin and progress of the volunteer defensive movement in South Australia by quoting some of the comments of the press on the occasion, since they may be assumed to represent the state of public opinion at the time. The *Adelaide Observer* of May 26th, 1855, published the following account of the review under the head of "The Volunteer Force":—

"The first gun detachment of each artillery company mustered in the gun paddock at half-past 11 o'clock, and at noon precisely a royal salute of 21 guns was fired with admirable precision; after which the cannon, consisting of two light six-pounders and two twelve-pounder Howitzer's were limbered and run over to the eastern park, where the entire volunteer force was brigaded under command of Colonel Moore, Lieutenant-Colonel O'Halloran, Lieutenant-Colonel Freeling, Major Torrens, and Major Wigley; Captain Biggs and Captain De Lisser were also on the ground. The extreme right was occupied by the Adelaide Mounted Rifles under Captain Gwynne, and the first company of artillery with two guns; the first battalion of infantry was on the right centre, and the second battalion on the left; the extreme left being composed of the second company of artillery with two guns and a detachment of the mounted police under Inspector Hamilton. A detachment of foot police was also present to clear the ground. At 2 o'clock His Excellency the Acting-Governor arrived attended by Mr. Maturin, the private secretary, and several other gentlemen, and inspected the troops. A Governor's salute (15 guns) was fired by the artillery, followed by three cheers for Her Majesty, in which all the volunteers very heartily joined. His Excellency then left the ground, and the troops were dismissed."

The volunteers on that day were armed with flint muskets (known as "Brown Bess"), and I must add

that the entire population numbered only 85,821 souls. The efforts made by South Australia to provide for its own defence then and since can only be understood and appreciated by a statement of the sacrifices which she had made to maintain her defence forces in the several years that followed the war. I have obtained from the Government records in the Audit Office the following particulars of the cost of the military movement from its inauguration in 1854 to close of the year 1867. Beyond this date I refrain from publishing details or making remarks, as we then arrive at a comparatively modern period, well within the memory of this living generation, and when the more complete organisation which now prevails had already taken the place of the unpaid volunteer force, which was the sole reliance as a reserve force in aid of the small military detachment, never amounting to two full companies, of the regular troops.

Statement of the sums expended in military organisation from 1854 to 1867, with the population :—

| Year | Population | Military Expenditure |
|-------------------------------|------------|----------------------|
| 1854 Year ended December ... | 92,545 | £2,193 |
| 1855 " " " ... | 96,982 | 17,628 |
| 1856 " " " ... | 104,708 | 3,330 |
| 1857 " " " ... | 100,917 | 3,225 |
| 1858 " " " ... | 118,340 | 4,447 |
| 1859 Half-year ended June ... | 122,735 | 1,507 |
| 1860 Year ended June ... | 124,112 | 9,465 |
| 1861 " " " ... | 126,830 | 11,941 |
| 1862 " " " ... | 135,329 | 13,698 |
| 1863 " " " ... | 140,416 | 11,836 |

| | | | Population | Military Expenditure |
|------|----------------------|-----|------------|-------------------------|
| Year | | | | |
| 1864 | Year ended June | ... | 147,841 | 4,323 |
| 1865 | " " " | ... | 156,605 | 5,892 |
| 1865 | Half-year ended Dec. | ... | 156,605 | 1,412 |
| 1866 | Year ended December | ... | 163,452 | 10,702 |
| 1867 | " " " | ... | 172,860 | 23,439 |

In the above expenditure the pay of regular troops is included, as also the cost of military buildings, such as the armory, barracks, gun-sheds, and powder magazines, as also the cost of arms and ammunition. The men who turned out for inspection on May 24th, 1855, were strictly speaking a volunteer militia force, since they were paid for each day's attendance. On the return of peace they were disembodied, and a new organisation of unpaid volunteers was formed in place of enrolling a militia. The account of the formation of this force, ultimately superseded by the more efficient military establishment which is now under the guidance of officers detached from the regular army, will be found later in this chapter. The death of the Emperor, the moving spirit of the war, will form an appropriate continuation of the subject.

Early in March, 1855, the Emperor Nicholas died by one of those sudden dispensations which have frequently shortened the lives of Russian Emperors, and news reached Melbourne on May 13th. But there was no special reason for concluding that the war was at an end. On the contrary, the preparations of England were carried out on the most stupendous scale ;

and on January 29th of the same year the Emperor had published a manifesto declaring the objects of the war, and expressing his determination to carry it on with vigor. In that manifesto he ordained the formation of a general militia of the empire. The news of the battle of Alma, the advance of the allied armies of England and France on Sebastopol; its siege without investment and the subsequent battles and carnage at Inkerman and Balaklava had stirred up the feelings of the colonists from their inmost depth which not only showed itself in arousing their military ardor, but extended to the practical sympathy of subscribing funds for the relief of the widows and orphans of those who had fallen on the fatal fields of the Crimea. War had been declared against Russia by England on March 28th, 1854, and in less than twelve months from that date the career of the Emperor Nicholas had closed in death. His death was followed by negotiations for peace, and England, in the midst of enormous preparations to continue the war, and successful in her operations during the last campaign, was induced to accept terms which left the power of Russia without much diminution, and England without having gained the objects for which the war was ostensibly undertaken. She had been dragged into war for purposes which seemed unsatisfied, and Russia only gained time for that more serious war, which, continually imminent, was only ended by the congress of Berlin; whilst the ambition of Russian Emperors is constantly threaten-

ing a renewal of disturbances in Asia and the East. When the power of the purse is in the hands of an autocrat, the passion of a single man, nursed into madness by the possession of absolute and irresponsible power, is always capable of dooming millions to suffer the extremities of war and misery.

The continuance of the war of 1854-5 was averted by a peace, the mysterious solution of which may perhaps be found in the reluctance of France to continue a contest in which she was pledged to abstain from all acquisition of new territory—a war which only cost her blood and treasure, and which, if continued on a greater scale, it was hinted must be carried on under new conditions. The resuscitation of Poland, with a new direction to be given to the war involving the extension of her boundaries to the Rhine at the expense of Prussia, seemed to be the possible requirements of the French Emperor; and hence the ambitious alliance was renounced for the more temperate proposals of Austria, which meeting with a favorable response from the Emperor Alexander, induced Lord Palmerston to bring the mighty conflict to an immediate close. Immediate and temporary—as events have since declared themselves—for the designs of Russia are threatening renewed operations, and giving rise to the necessity of fresh treaties of alliance, in which as yet England and France have no part.

Peace being proclaimed in Europe, there was peace

in Australia. The first military force of 1855 was no longer called out for training and exercise, and in the year 1856 the military expenditure fell to £3,330, of which sum £2,728 was chargeable to the regular troops; and the cost of the volunteers, due to the payment of three staff officers and four sergeant instructors, amounted only to £601. It remained at a low figure until the year 1860. But although the military ardor of the colonists was no longer called into requisition, it was not long left in abeyance. Rumors of war were afloat, and war clouds hung on the distant horizon. The arsenals of Europe were occupied in preparations for war. The inventive powers of naval and military engineers were called into requisition to produce iron-clad ships of war with artillery of new and formidable dimensions and structure. Small arms were undergoing a great change. We were disturbed by the American war—North against South—with its elements of danger to other nations. France, the eldest son of the church, as the Popes delighted to style her, occupied Rome with a strong military force in the interests of the Vatican as against the assaults on the temporal power just then reaching their culmination in Italy. The liberation of Italy from the grasp of Austria was rendered memorable by the victory of Solferino, where the French Emperor with much mystery paraded his rifled field guns. Prussia and Austria had a sharp and decisive passage of arms, and finally France and

Prussia had a death struggle ostensibly as to what prince should reign over the monarchy of Spain. In this conflict Krupp guns loading at the breech carried destruction into the new batteries of mitrailleurs with which the French had hoped to repeat Solferino. The crowning victory of Sedan and the capture of the impregnable fortress of Metz by investment and starvation closed the career of the Napoleonic dynasty, and left the world to breathe in peace once more ; but these events had kept up the war scare in England and in the British colonies. The South Australian Government was driven to take measures to keep up the confidence of the colonists in their means of defence against sudden predatory attacks, and recourse was had once more to the volunteers, but this time on a different system and a less expensive one. The experiment was tried of calling out a body of unpaid men, and the number of 2,000 enrolled themselves for three years on these terms. As this system has gradually yielded to a more elaborate, a more complete, but at the same time a much more costly service, I might pass over this period of our military history, but my account would be incomplete if I were not to point out how our present defensive armament and organisation gradually arose out of past experiences. I shall, however, keep my remarks within the smallest possible compass, as I wish to adhere to my plan of avoiding details, and following out events only which led to general results.

After peace had been signed between the allied powers engaged in the Crimean war and Russia, the first defensive paid volunteer force, as I have stated, was no longer kept in employment ; but the Government, moved by the unsettled state of Europe, made preparations to provide for future security. Requisitions had been addressed to the Home Government for arms of the newest pattern and best description, since it was thought that troops imperfectly trained should have their confidence kept alive by the feeling that the weapons which they might be called upon to use in a defensive war should be at least as perfect as those which might be opposed to them. In this way superior knowledge of the country and its resources would seem to induce that equality amongst the combatants which other conditions would otherwise disturb. In response to the applications for arms we received the gift from the Imperial authorities of two thousand Enfield rifles, then the most perfect weapon known in the British service, and perhaps in Europe. Committees met in the local Parliament to consider the defences and every effort was made by the Government to obtain the best advice and the best assistance. The rifles were distributed amongst the volunteers with the necessary accoutrements, and drill and training were resumed. Soon the companies, through the exertions of their officers, assisted by competent drill instructors, mastered the details of company movements, and it was then determined to form a certain number of

companies residing in Adelaide or on the lines of railway, or other easy communication into a battalion. This was easily accomplished, and Lieutenant-Colonel Finnis, who had as captain raised and drilled one of the companies named the Adelaide Marksmen, was appointed to command the first Adelaide regiment. With this organisation there was no difficulty in obtaining a considerable muster of volunteers to celebrate the accession of Her Majesty on June 20th, 1860, by a review on the East Park Lands. The Governor-in-Chief, Sir Richard McDonnell, was unable to attend on this occasion through severe illness, but Lady McDonnell, like Queen Bess in olden times, undertook to review the colonial forces. As this display was carried into effect under my own immediate command with very little assistance, except in the preliminary drill of the companies, I prefer, on this the first occasion on which the South Australian volunteers of all arms had been brigaded—to use the military term for such assemblies of different arms of the service—to employ the words used by the daily press in describing the event, omitting a few passages in the press narrative which would occupy unnecessary space. The report is as follows:—

“The anniversary of the accession of Her Majesty Queen Victoria to the throne of England was observed on Wednesday last in South Australia by a demonstration of a most attractive character—the review of those gallant volunteers who, moved by the troubled

state of Europe, have been formed within the colony during the past twelve months. At about 1, or half-past 1, the volunteers, headed by the band belonging to the First Adelaide Rifles, made their appearance at the end of Rundle-street, down which they had marched. They crossed the park lands in most soldierly style, and in the following order:—The first Adelaide Rifles, the Munno Para East Rifles, the first and second Gawler Town Rifles, the Salisbury Rifles, the Port Adelaide Rifles, and the Glenelg Rifles, altogether amounting to 270 rank and file. Other companies were seen marching to the review-grounds from various directions, and spectators in every kind of vehicle and on foot were hurrying to the one attractive spot in front of the grand stand. In the course of half-an-hour the cover-sergeants had been placed, the companies marched upon them, and the regiment formed into open column in the following order and as near as could be ascertained in the following strength:—The Port Adelaide Rifles, 29 ; the Mitcham and Glen Osmond, 24 ; the Adelaide Rifles, 38 ; the Munno Para East Rifles, 51 ; the First Gawler Rifles, 30 ; the Salisbury Rifles, 20 ; the Kent Rifles, 20 ; the Alberton and Queenstown Rifles, 24 ; the Norwood and Kensington Rifles, 22 ; the Eastern and Suburban Rifles, 35 ; the Second Gawler Rifles, 38 ; the West Adelaide Rifles, 32 ; the Adelaide Marksmen, 27 ; the Glenelg Rifles, 26 ; the First Adelaide Rifles, 69 rank and file, besides officers and band. In advance of them, and in

the direction of Mitcham, were placed the Adelaide Artillery, with 3 guns and 32 men; in advance of them again the Port Adelaide Artillery, with 2 guns and twenty men, and in advance of them all the Reed-beds Volunteers, nearly forty strong. Altogether the force on the ground reached within a few of 600 volunteers of all services, and when drawn out presented a very military and imposing appearance. While the companies were being adjusted so as to form but eight only of nearly equal numerical strength, a process which caused considerable delay, Lady McDonnell, accompanied by the Most Reverend the Lord Bishop of Sydney, the Right Reverend the Lord Bishop of Melbourne, Colonel Freeling, the Honorable the Speaker, and Mr. Lyon, S.M., rode on to the review ground. Mrs. Barker, Mrs. Perry, and Mrs. Lyon also arriving in the Governor's carriage. The companies having been arranged, were wheeled into line, and presented arms to Lady McDonnell and party, who cantered along the front, after which they speedily commenced the manœuvres of the day. The artillery, both Port Adelaide and Adelaide, were drawn up in the direction of Mitcham, at the extreme south of the land marked out on the review ground, the cavalry flanking it on both sides. After a few rounds had been fired by the artillery the cavalry moved forward as if to follow some retiring force, and the Adelaide Artillery moved after them in the direction of Glen Osmond—or due south. This they did, it afterwards

seemed, with the view of returning as an attacking and antagonistic force. The Port Artillery took up position at the north end of the parade ground, on the left of the battalion, which had formed into close column, and marched thither from the west front of the review ground. The face of the battalion and the muzzles of the Port Adelaide guns were then towards the direction of the Adelaide Artillery and the Reedbeds Cavalry, which were about half a mile or three-quarters away. The first movement which then took place was the throwing out of skirmishers in the direction of the supposed enemy. This was effected by moving forward the two front companies of the battalion, and was very successfully accomplished. The compact masses were soon sown broadcast over the ground, and formed an accurate line about four hundred yards in advance of their battalion, where they commenced desultory firing, as if an enemy had made its appearance. These skirmishers were supported by two other companies, who moved out towards them. While the battalion was thus distributed the cavalry began to move up, and the artillery to fire from the south, on which the bugle sounded for the retreat of the skirmishers, who rapidly withdrew in behind the supports and towards the reserve, where it was evident the battalion would be exposed to a charge of cavalry in a few minutes. Order was therefore given to the Port Artillery to fire to retard the approach of the cavalry, which they did

with great smartness. Meanwhile the companies were formed into a square to receive cavalry, the front ranks kneeling, and the rear ranks standing, according to the usual practice. The cavalry charged, and when within from 50 to 100 yards wheeled and retired, the infantry and Port Artillery blazing out at them, and the Adelaide Artillery responding as if to cover the retreat of the cavalry and riddle the square before it could open out. This manœuvre was repeated four times with very little variation, the cavalry maintaining perfect order, wheeling well, and getting into no confusion, but their pace was slow, far too slow for making an impression on a square, and they ought to have gone up a little closer. When this mock contest had terminated the face of the battalion was changed and skirmishers were sent out towards the east side of the review ground, where the artillery were formed on each flank of the reserves. On the skirmishers retiring upon the battalion the whole were opened out into line and fired a volley very smartly, and charged in a manner which did them very considerable credit. These were the principal movements, and the manner in which they were executed is deserving of commendation, when the rawness of some of the men is taken into consideration. The commanding-officer (Lieutenant-Colonel Finnis), who, by-the-way, was without the aid which he ought to have had, exerted himself most energetically, and to him great praise is due * * * At the most moderate computation

not less than from six to seven thousand persons were present."

In the evening a dinner took place in White's Rooms, when several speeches were made. Capt. Blyth, of the 40th Regiment (shortly to command the volunteer forces), and who had been present at the review, observed, "He could say from his observation of the volunteers when under review that day that they were very steady under arms, and that was a great matter. It was evident they had very much broken the neck of their drill during the last month, and had pretty nearly mastered every movement. He must say that the line of skirmishers was thrown out uncommonly well. He said that as a soldier." Captain Biggs, the staff-adjutant, also concluded a short speech by "referring to the creditable manner in which the volunteers had been brought through the various movements in the review of that day, &c." In criticising the movements on June 20th, 1860, it should be observed, as remarked at the time, that many of the men had not completed their company drill, and consequently could not be relied on in brigade of different arms to carry into prompt effect all the orders and intentions of their officer as to their relative posts and duties. In the following year the volunteers were again brigaded under the command, at that time, of Captain Blyth, of the 40th Regiment, who had been appointed colonel-commandant of the whole volunteer force. They met in review

order on the North Park Lands on June 28th, 1861, and were put through several evolutions. At the conclusion Colonel Blyth "expressed his thanks in a general order to Lieut.-Colonel Finnis and his field officers, to whom the working of the battalion was entrusted, for the efficient and careful way in which every manœuvre was executed, and to the captains and officers commanding companies, he said, his thanks were particularly due for the able manner in which, without exception, every company was commanded; and the colonel further testified to the steadiness and soldierlike bearing of the whole force, as well as to the great improvement made in battalion and skirmishing drill since the review of November 9th, 1860." Without efficiency in the use of the rifles no troops can be of much account. But we find that this part of the volunteer training had been carefully attended to. The musketry instructions were specially under the direction of the Staff-Adjutant, Captain Biggs, and the volunteers on the roll were carefully practised at the butts then erected on the South Park Lands. In a return published on December 2nd, 1862, in the *Government Gazette* it appears that the final classification of the Volunteer Force for that year at target practice with the long Enfield rifle, and under the Hythe regulations of 1860, gives the result as follows:—Out of 1,296 officers and men in attendance on stated days there were—219 in the third-class, 406 in the second-class, and 671 volunteers in the first-

class. Of the total number, 406 classified as marksmen, and the ratio of marksmen to the number classified was 31·32 per cent. On November 20th in the preceding month the total number of volunteers on the roll, including 43 of the Free Rifle Corps, were 2,008 of all arms, and 745 of this total constituted the strength of the Adelaide regiment in officers and men. The last volunteer review to which I shall allude was held on May 27th, 1863. And here again I shall not hesitate to place on record in these pages the opinions of the press. The *Advertiser* of May 28th, 1863, reported:—"Wednesday, May 27th, was observed as a general holiday by the citizens of Adelaide, it having been fixed as the day for celebrating the birthday of Her Most Gracious Majesty Queen Victoria. The chief feature in connection with the commemoration of the event was the review of our volunteer troops on the North Park Lands. If the review of Wednesday did not satisfy all that we are entirely secured from or prepared to meet an invader, it nevertheless assured those versed in military tactics that we have the nucleus of a not-to-be-despised army." The *Register* remarked on the following day, after giving full details, which I shall presently transcribe—"Thus ended the review of May 25th, 1863, which on the whole was a most successful demonstration, and showed that the ardor of the South Australian volunteers is still unabated."

"The volunteers of South Australia again responded

to the call of duty by attending the review held on Wednesday, May 27th, in honor of Her Majesty's birthday." Subjoined are the companies who were present, with their respective numbers:—First Adelaide Rifles (Captain Lower)—42 officers and men, and 15 in the band; Adelaide Rifles (Captain Warburton, of the Angaston Rifles, in the absence of Lieutenant Clark on leave, and Lieutenant Lewis (who was engaged in dispatching the mail)—35 officers and men; West Adelaide Rifles (Captain Cawthorne)—40 officers and men; Sturt and Brighton Rifles (Captain Burton)—35 officers and men; Gawler Volunteers (Captain Ogilvy)—31 officers and men, and 10 in the band; Salisbury Rifles (Captain Wauchope)—12 officers and men; Eastern Suburban Rifles (Captain Sellar)—14 officers and men; No. 1 Brighton Rifles (Captain Niall)—28 officers and men; Mount Barker Rifles (Captain Paltridge)—22 officers and men; Kapunda Rifles (Captain Egerton)—46 officers and men, Woodside Rifles (Captain Bunday)—25 officers and men; Teatree Gully Rifles (Captain Robertson)—18 officers and men; Kapunda Mine Rifles (Captain Oldham)—102 officers and men, and 15 in the band; Williamstown Rifles (Captain Warren)—20 officers and men; City Rifles (Captain Shawyer)—24 officers and men; Port Rifles (Captain Addison)—7 officers and men; Adelaide Artillery (Captain Blackham)—38 officers and men, manning 4 guns; Port Adelaide Artillery)—(Captain Quinn)—18 officers and men, manning 2

guns. There were two members of the Milang Company—Captain Rankine and Private C. Coleman. The regimental colors were borne by Lieut. Weir, the junior lieutenant of the force, who was escorted by Sergeant Harris of the Eastern Suburban Rifles, Sergeant Liddie, and Privates M. Flannery and Thomas Ore of the Kapunda Mine Rifles, and Private Savage of the Woodside Rifles. At a quarter-past 12 o'clock, all preliminaries having been arranged, the infantry marched along North-terrace, Bridge-road, and Pennington-terrace to the review ground, where the artillery had already taken their position. On reaching the ground the brigade was wheeled into line and stood at ease until His Excellency's arrival at a quarter-past 1 o'clock. His Excellency was attended by Mr. J. G. Daly, private Secretary, Mr. R. D. Ross, A.D.C., Major Bowdler, 40th Regiment, and Chief Inspector Hamilton, and was escorted to the ground by fifteen of the Reedbeds Cavalry, under Captain Ferguson, and a number of mounted troopers under Sergeant-Major Searcy. His Excellency having taken his position at the saluting base, the cavalry formed on the right of the brigade. Lady Daly, Miss Daly, and Mr. J. G. Daly came on to the scene shortly afterwards. Immediately on the arrival of the Governor the proceedings commenced, which we shall now endeavor to detail. Lieutenant-Colonel Finmiss commanded the brigade, and was assisted by Major Mayo, Captain Biggs, Adjutant Worsnop, and Drill-instructor Fraser.

who acted as orderly. The movements on the review ground seem to have been divided into five periods. The first consisted of the usual ceremonial display in honor of Her Majesty's birth, followed by marching past the Governor-in-Chief in review order. The line, which numbered upwards of 500 volunteers, being drawn up with cavalry and artillery on the right. A *feu-de-joie* was fired by the battalion, each round following a discharge of seven guns from the artillery, thus completing the number of twenty-one guns prescribed for a royal salute. The *feu-de-joie* was fired with rapidity and regularity. When the deep boom of the guns and the sharp rattles of the rifles died away the battalion presented arms, and gave three hearty cheers for the Queen, and at the same time the band of the First Adelaide Rifles struck up the National Anthem. His Excellency then rode to the front and was received with a general salute, after which he proceeded along the line from right to left, accompanied by his staff, and made a careful inspection of the appearance of the volunteers of all arms, returning along the rear and round to the front, when he took his station near the saluting base to witness the marching past; and really the way in which this part of the programme was carried out reflected great credit on the volunteers; the precision of the wheels at the several angles of the squares, the regularity of tread and the perfect line of the several companies spoke well for their steadiness and drill. The cavalry

and artillery aroused the attention of the spectators by the martial and formidable display they made, and the horses of the artillery behaved exceedingly well. Notwithstanding the heavy nature of the ground, after marching past in open column the brigade moved forward a second time, the cavalry and artillery at a trot, whilst the infantry were formed in closer array than before. There were four distinct and separate advances for the attack, combining the use of cavalry, artillery, and infantry, each advance being varied in its details, and followed by corresponding movements of retreat to bring the little army on each occasion back to its original position, fronting the ground selected for the view-point of the Governor and spectators. At this period the scene was brilliant and animated, beyond what could have been expected, considering the threatening state of the weather and the dampness of the ground and atmosphere from the late heavy rains. A line of skirmishers rapidly spread itself out from the advancing line, covering the movement by a rapid and desultory fire, which gradually approached the spectators, followed in the distance by a majestic line of bayonets. Suddenly they halted, and a volley pealed from the whole attacking force, aimed directly over the skirmishers, who at the distance of about 50 yards in front were ordered to lie down. The skirmishers fired in their turn and disappeared from the front, when a well-sustained rattle of musketry from the main body covered the line with smoke, and partially

hid the men from view. In the cloud and apparent confusion the shrill notes of the bugle were heard, and the firing ceased. Then followed a dashing charge of cavalry across the ground just quitted by the skirmishers. This being finished the line was seen in full retreat, and suddenly it broke into open column, and exposed to view the artillery which had previously been planted in the rear. The retreat was effectually covered by this arm, for the column could scarcely be distinguished through the veil of smoke raised by their fire. The next advance was made in different array. The approach was in column at quarter distance, flanked on the right by artillery, and on the left by cavalry. Soon the horsemen spread out, using their carbines in attack. In the intervals between the horses was seen an intermediate line of infantry in extended order, moving steadily to the front before the main body. The cavalry speedily dispersed, moving to the extreme left out of sight, and the sharp crack of the rifles was then heard, but was drowned at intervals by the fire of artillery which had swept up with the column. Soon after this the scene again changed; the riflemen disappeared and the column was observed to lengthen its dimensions into a formidable line. When this had been fully formed, a volley blazed from the entire front; and after a time a retreat was effected by alternate wings firing and sustaining each other. This movement was admirably supported by the artillery, three guns on

each flank. A short cessation ensued, and then a most imposing advance was made in direct echelon of companies from the right. As this array came sweeping on, a sudden order changed the whole front to the left, when line was formed to the new front, and skirmishers were seen scattered over the new space selected for the battle ground. This was a most effective and well-executed movement. Cavalry were now seen in the distance, and the alarm was sounded, for they had now assumed an hostile attitude and menaced attack. The infantry were rapidly thrown into a defensive position, and the skirmishers formed into small squares just in advance of the main body, which also prepared to bid defiance to the threatening horsemen who now began to approach. The position seemed too formidable for successful attack by them—a living redoubt on the right bristled with bayonets the battery of artillery in echelon had taken post at an angle on its left, and the skirmishers' squares protected the left flank of the guns. On, however, came the cavalry at a rush before they discovered their mistake, but the fire of artillery and rifles opening on them they rapidly wheeled round and disappeared from the front of the position. This manœuvre was also well executed, and was much appreciated by the spectators, although in the formation of the battalion square there was some little disorder, which was soon remedied. The day was now far advancing, and it was generally

expected that this brilliant display would be the closing effort of the volunteers. But a new movement was evidently to be tried. It was to be shown that the volunteers were trained in other modes of warfare. After breaking up their position they took ground again towards the river, again fronted the spectators and stood a solid mass ready for another attack. This time the whole battalion skirmished, advancing with supports and reserves; skirmishers were relieved whilst advancing, and finally on a retreat being ordered they were again relieved retiring, thus showing that whether in solid battalion against infantry or cavalry, or in light infantry order spread over the ground they could be trusted to take their part in line either for attack or defence. At the close of their last skirmishing movements the line was formed, the ranks were opened, and the Governor riding to the front received a parting salute, which closed the movements of the day."

This may be said to be the closing scene of the first volunteer movement. It is now twenty years since the event I have described took place. Many who shared in the pageantry and amusements of that day may have passed away to their long home, but those who were present and survive at this date will remember with some feeling of pride and satisfaction the share they had in that day's demonstration as citizen-soldiers, under the eyes of relatives, wives, children and friends, who had flocked to the scene to

the number of not less than four thousand. Other reviews have been witnessed in later times in which perhaps larger numbers participated and a more complete discipline was exhibited but efficiency can always be purchased where able-bodied men are to be found, as is the case in South Australia. The first volunteers, at much cost and inconvenience to themselves, showed that in an emergency men will also always come to the front in sufficient numbers to defend their hearths and homes in the hour of menace, and the early volunteers have certainly the credit of having proved the source of a military organisation, partaking more of the qualities of regular troops in training and discipline, though not superior in patriotic ardor. One effect of the enrolment of the first body of volunteers has been the diffusion throughout the colony of the knowledge of the use of the rifle, the advantages of which will be to render it easy in the future to collect a large body of men well trained in the use of military weapons, who, as a militia, will quickly acquire the drill necessary to make them effective soldiers in tactical movements. The review of May 27th, 1863, is the last that I shall record. It closed the three years' service of the first enrolment of the unpaid volunteers, and from that time forth the system gradually grew into disfavor with the Government, although a second enrolment was resorted to for a further period of three years under altered regulations, which were issued on September 22nd,

1863, under the rule of Sir Dominick Daly. In order to secure the renewal of the services of the trained volunteers they were offered as an inducement to sign the new roll the free gift of the rifles and accoutrements then in their keeping. But it was felt that the day was gone by when men would continue to attend drill without some compensation for loss of time, and this disinclination was shown in the gradual falling off in the numbers present on field-days. Still the volunteer movement did not depend entirely on the force enroled by the Government. A number of colonists had formed themselves into an association for rifle practice in 1861; and Sir Richard MacDonnell gave a very politic support to this association by allowing himself to be nominated its president. They had their first meeting on October 29th of that year. This system of encouraging men throughout the colony in the use of the rifle was attended with the happiest effects, and has since then developed into the "South Australian National Rifle Association," recognised by the Government and encouraged by a special Act of Parliament as an Auxiliary Volunteer Military Force, afterwards authorised by an Act, No. 118, passed in the year 1878.

But to return to my account of the original volunteer unpaid force and its renewal in 1863 by a further enrolment for three years. The feeling that better attendance would be secured by payment of the men was expressed in the House of Assembly in a printed

memorandum (No. 115) by Mr. H. B. T. Strangways, M.P., on the enrolment of volunteers, together with Colonel Bigg's report on the same. In this memorandum Mr. Strangways suggested the payment of 2s. 6d. to every volunteer for attendance at drill, and a fine of corresponding amount in case of absence from parade. This was not at that time adopted, but it led to the passing of an Act on March 16th, 1866, which completely altered the system and made the Volunteer Military Force a paid body. By this Act the various volunteer companies previously in existence were disbanded. The following year this Act underwent amendment, and was superseded by No. 19, of 1866-7. A printed parliamentary paper (No. 192), dated December 3rd, 1867, gives the strength of the volunteer and reserve forces. From this return, signed by Colonel Biggs, then commandant of the whole defensive force, it appears that the paid volunteer force numbered 856, and the reserve only 34. The defensive movement was deemed incomplete and public opinion being in a very unsettled condition, the Government were induced to recommend the appointment of a royal commission. The commission subsequently issued by the Governor, Sir Anthony Musgrave, on the advice of the Chief Secretary (the Hon. William Morgan) nominated the following gentlemen as members "to consider and report upon the whole question of the defences of the province," viz., Colonel Warburton, of the reserve force; Frederick

Howard, Staff Commander, R.N.; the Honorable Boyle Travers Finniss, Colonel Reserve Force; William Barber, Colonel of H.M. Madras Army; Benjamin D'Urban Musgrave, Captain H.M. 39th Regiment; and James Hesketh Biggs, late Captain H.M. 49th Regiment. The commission was dated January 22nd, 1876, and on January 29th His Excellency was pleased to appoint the Hon. B. T. Finniss to be chairman. The first meeting was held on February 8th following and continued through repeated adjournments until June 12th following, when the commission furnished their report to the Governor. It was signed by every member to mark their agreement in the general principles; but each member, in an appendix, stated his views on special parts of the report. These separate statements are valuable as embodying the opinions of men who had military or naval experiences to guide them, and who had before them authoritative reports from the engineering staff of Woolwich, as well as from the mercantile firms of Messrs. Laird, Whitworth, and Armstrong. Our present system has been based on the general report of the commission, and our defences, under the control and command of able and experienced military officers selected by the Imperial Commander-in-Chief, will no doubt follow, in any changes in the nature of expansion, the models before them in the British army organisation whilst they continue to be suitable to local circumstances. The report of the commission is

not quoted here, because it is easily obtainable, and will be found in full in the parliamentary records (*see* pp. No. 45 of 1876.) This sketch will now close with the statement that our defensive establishment is under the chief command of Colonel Downes, major in the Royal Artillery, assisted by Deputy-Assistant Adjutant-General Jervois of the Royal Engineers. In the year 1880 the military local forces consisted of sixty mounted rifles, one hundred and forty artillery, and eight hundred of the Adelaide Rifles, to which the South Australian National Rifle Association of which Colonel Downes is inspecting field officer, will form a valuable auxiliary force in reserve in the hour of need.



CHAPTER IV.

Continuation of rule of Sir Henry Young—Grievances in the Colonies owing, as they alleged, to the misappropriation of the Land Fund—Remarks on the importation of labor at the cost of the Colonial Government—The effect of the gold discoveries in 1551-2 is to bring the Australian Colonies into importance, and the difficulties of governing them under the new circumstances leads to offers of the Imperial Government to grant free institutions to the colonies, and to second their efforts to frame suitable constitutions—Quotations from Imperial despatches containing these views—Public meetings throughout South Australia in favor of an elective Upper Chamber, instead of one nominated by the Crown, as proposed.

AN attempt has been made in the preceding chapter of this narrative, under a description of the Volunteer Military Movement in South Australia, to carry the reader back to the origin of the defensive position of the colony in 1854. We can see at this time, if we please (October, 1884), two powerful batteries erected on the shores of Port Adelaide, and we have just witnessed the arrival in our waters of a war ship, the property of South Australia, armed and constructed at our own cost, after the most approved modern type at present known in England. We may now bid defiance to any mere predatory or privateering attack consequent on a declaration of war by any of England's enemies; and we have shown that we are in earnest in our desire to

render ourselves worthy of the independence which we claim in virtue of our British descent—an independence, however, not of the mother country—but of all foreign interference. We are now in a position to form, on equal terms, one of the family of free states, whose confederation for common objects, defensive and political, is but a question of the immediate future. In the meantime, under the ægis of Britannia, we are busy planning that future, and preparing ourselves to develop social and national interests in accordance with the high destiny that awaits us, provided with all the privileges of self-government, and trained in the mental habits and experiences derived from the traditions of our ancestors, which have taught us that political power and true freedom are only safe in the hands of a law-abiding people. The English nation, it is true, has been built up to its present greatness through the storms of civil wars and revolutions; but they were the conflicts of a free people overcoming tyranny; and we, an offshoot of that great stock, are profiting by the results of those constitutional struggles, and, as far as prophetic vision can reach in these days, we have done with tyrannies, dynastic, aristocratic, or democratic, and have learnt that a people free to make their own laws and choose their own government, if only true to themselves, have an instrument at command more potent than insurrections and revolutions—that is their own sovereign will, calmly, peacefully, and

constitutionally exercised. These remarks will not be deemed a useless digression, when it will be seen that in our small community we have had occasion to exercise the great political powers freely offered by the mother country, and when we come to consider the motives that prompted Imperial statesmen in granting, and the people of South Australia in giving effect to their freedom of action, as evinced in passing the free political Constitution Act we now possess. And it is to be hoped that the sketch just concluded of the volunteer movement will be regarded only as a necessary divergence from the main stream of our political history, since that narrative could not without such a breach of continuity have been made clear and intelligible in its full bearing, without referring to our defensive condition. Having thus cleared the way to revert to our constitutional development, it only remains to remind the reader of the causes of the relaxation in the system, by which the Australian colonies were governed whilst they were classed under the designation of Crown colonies—a young community settled under the guidance of the Imperial power, and at the cost of the mother country, must, under such circumstances, be satisfied to surrender a large portion of its political freedom.

The causes of the change in favor of liberal views of self-government must be sought partly in the advances made in the science of political government in England, through the march of public opinion which

reacted on the views of statesmen, and produced the reform Acts in the year 1835, enlarging the political and municipal powers of the whole community; and partly in the changed condition of the colonies, arising out of their material progress caused by the extraordinary gold discoveries in New South Wales and Victoria, in about the year 1851. Whilst statesmen at home were acquiring views of liberalism, the colonists, in the full confidence of increased wealth and importance, were struggling for the full enjoyment of the rights of representative government. The grievances which chiefly occupied the attention of the colonists of South Australia, and were continually made the subjects of remonstrance, were two-fold. First and foremost, the administration of the waste lands of the Crown, and the disposal of the proceeds of their sale and lease; and next the patronage and appointments to office in the Colonial Government, both of which were entirely in the hands of the Secretary of State, varied and assisted by occasional recommendation from the respective Governors of Provinces.

Men in the possession of power are prone to exercise it; and as Governors are but men, it resulted that the land revenues were expended on projects without reference to the wishes of the colonists. Thus a sum of not less than £20,000 was laid out by Sir Henry Young in the construction of a road between the Port of Adelaide and the North Arm of the harbor, and an equally

large sum in the attempt to construct a breakwater and tramway at Port Elliot in the south, in the hope of making that port an outlet for the traffic of the River Murray by way of the Goolwa, a deep reach of the lower Murray. Both these projects were resisted and frustrated by the Legislative Council, whatever may have been the merits and real usefulness of such works. They were cases of rival interests, contending to make Port Adelaide the one great outlet for the Murray trade, and the other intent upon concentrating value on the already established wharfage higher up the Port stream. It was found, moreover, and, at least, was often asserted, that the chief towns in the colonies favored by being the seat of Government, received too large a share of the expenditure of the land fund to the disadvantage of the country districts. These were old grievances, and this alleged misappropriation has been fully alluded to in that part of my historical narrative in which I explained the origin of district councils.

Then as to the expenditure of the immigration fund, which formed part of the land fund, after provision had been made for the cost of survey and land sales, there were frequent complaints. The immigration fund, by Act of Parliament, was placed under the management and control of Colonisation Commissioners in London, and was not always judiciously expended; probably in some degree owing to imperfect recommendations from the colonial authorities. The

mismanagement of this fund, alluded to in a former chapter, became apparent in the spasmodic supplies of labor at times when the supply was not needed. The excess of labor in the year 1841 first became a source of great embarrassment to Governor Grey, especially as the public finances and private capital were subject to a severe strain caused by the sudden reduction of Government expenditure, and the dishonor of the bills drawn by Governor Gawler in 1840 to maintain that expenditure. Private capital was found to be entirely disproportioned to the effort of finding employment for the new arrivals. The supporters of the Wakefield theory of colonisation, which provided that all the proceeds of all sales of waste lands of the Crown should be dedicated exclusively to the introduction of labor, seemed to have assumed that the purchasers of land would always introduce or provide capital for its improvement and the employment of labor. During the first six years of the existence of the colony of South Australia, ending in 1841, the land sales realised £285,456, or an average yearly receipt of £47,576; the whole population accumulated during the six years—being only 21,146 persons—it is clear that the speculators in land at that period, most of whom were absentees, as the records show, had failed to introduce capital into the colony in accordance with the expectations of its promoters. The land alienated during the same period consisted of 306,723 acres, and yet the number of the laboring population greatly exceeded

the capital, public and private, available to find them work. Subsequent Imperial legislation sought to restore the equilibrium between the capital available for improvement and the capital dedicated to the introduction of labor. Still, however, it seemed impossible to balance the two supplies effectually, and at various times since 1841, the difficulty of finding employment for imported labor has been severely felt, and has led to poverty and destitution. But in the year 1853, although the apparent mismanagement of immigration, then in the hands of the home authorities, had not reached the stages it has since assumed, it was felt to be a grievance for which we were not responsible, and the offer of the Imperial Government to give us complete control of the waste lands of the Crown, on certain conditions, was hailed with satisfaction. The problem of the best mode of dealing with the Crown lands remains one for full consideration; and the introduction of laborers at the public cost is still not well understood. The experience of the past would, in the opinion of many persons, seem to point to the abolition of all action on the part of the Government to sustain a State paid supply of labor. The arguments used were not without force, and demand careful study. Assisted immigration, as it is termed, when part of the cost of the sea voyage is contributed by private persons, is attended with this evil—that the friends and relatives who contribute a share of the cost and nominate the persons for passage,

subject to approval by the colonial officers in London, are not guided in their recommendations by any general views or knowledge of the particular requirements of employers, but rather by domestic sympathies; and hence the persons introduced, especially as regards skilled labor, find employment difficult in the fields of industry in which they have practised at home. As to free immigration, it is vitiated in its results by the action of agents in England, who use inducements and circulate information too much in the nature of exaggeration, and too much in the style of recruiting sergeants, anxious to persuade. And the system is further complicated by the instructions of the colonial Ministry, who must occasionally be influenced by classes of employers, and by the constituencies which return members to Parliament. Parliamentary action, too, sometimes embarrasses a Minister by creating delays at times when prompt decision might meet the cases arising out of meteorological conditions, always uncertain in this climate. Free immigration, to have the best chance of success, belongs more immediately to the functions of an executive than of a deliberative organisation. Considering the system under all these views, it should not excite surprise that trade and labor unions have taken root as a protection against attempts to keep down rates of wages. The Government can only provide employment by engaging in extensive public works; but the time must come when the state of the public debt incurred in their prosecu-

tion will impose a limit to great undertakings not immediately reproductive, and it will then become a serious problem for solution how far the State should continue the responsibility of regulating the labor supply. It is no part of my intention in penning these passages, to suggest considerations arising out of personal views, as I may appear to have done, but it is incumbent on me as regards questions that naturally come before me in relation to past experiences, to point to the arguments used by opponents as well as supporters of any system, in order that they may be made available for future guidance and consideration ; otherwise history loses its value in practical politics, and would become a record only of bare facts, without visible connection of cause and effect, through which the thinking mind gains instruction in the regulation of conduct.

The train of events arising out of the new direction in which material progress began to move, through the effects of the gold discoveries of 1851, has now brought me to enter at some length into a review of the course followed in South Australia in the year 1853, to secure the advantages offered by the Imperial Government, involving the principle of responsible government, and the control and management of the waste lands of the Crown. It will be necessary to prelude the action of the Legislative Council in framing the Parliament Bill of 1853, by quotations from the despatches addressed to the Governor of South Australia (Sir H.

E. J. Young), stating and explaining the terms and conditions under which the Governor of New South Wales was invited to frame a new constitution for that great dependency. The despatches affecting South Australia date from December 15th, 1852, and were laid on the table of the Legislative Council on July 21st, 1853. (Council paper No. 10.) On so important a question I shall not hesitate to give the full text of the dispatch (No. 26) from Sir John Pakington to Lieutenant-Governor Sir Henry F. Young. It is therein stated—"I transmit to you the copy of a despatch which I have addressed by this day's mail to Sir Charles Fitzroy, and of which a copy has been also sent to Lieutenant-Governor Latrobe. The circumstances of South Australia are in some respects so different from those of New South Wales, and its experience of constitutional Government so much briefer, that I hesitate to convey to you instructions to the same effect as those addressed to Sir Charles Fitzroy—not because Her Majesty's Government are in the slightest degree disinclined to extend to the inhabitants of South Australia similar concessions with those here made to the other colonies, but because they are without sufficient information of the views and feelings of the community under your government to entitle them to make a definite proposal—and they are unwilling to originate discussions on questions which, perhaps, the colonists may not themselves be inclined, at the present juncture, to take into considera-

tion. I believe, therefore, that the safest course which I can pursue is to place this despatch in your hand, leaving you to consider, with the advice of your Executive Council, the best mode of bringing its contents under the notice of the Legislature, and with the general assurance that Her Majesty's Government are not disposed to make any distinction as to the form of government or administration of the land fund between South Australia and the other provinces concerned, unless in pursuance of the wish of the colonists themselves." The despatch, quoted in its entirety, encloses one to Governor Sir C. Fitzroy of equal date, but numbered 95. The whole question of the grievances which New South Wales had referred to in petition to Her Majesty was therein fully discussed. The views of the Imperial Government, also proposing to concede the entire disposal and management of the Crown lands, and the revenues arising from them, were given in full, and the conditions on which these terms would be granted were set forth. It will not be necessary to recite the whole of this enclosed despatch; but, as the South Australian Government was invited to consider the best mode of bringing the subject under the notice of the Legislative Council, it will be requisite to state the terms and conditions to which the attention of the New South Wales Government was directed, since they would equally apply to South Australia. The motives which operated to influence the Imperial Government, in addition to a

desire to settle the grievances set forth in a petition of the Legislative Council of New South Wales, were stated to have arisen from the extraordinary discoveries of gold in some of the Australian colonies, which had imparted new and unforeseen features to their political and social condition—a state of affairs described as having no parallel in history. The new El Dorado suddenly starting into existence, excited attention in England; and the gold-producing colonies of the southern hemisphere, regarded as sources of untold wealth in the future, at once gave that importance to the Australian colonies, which riches and prosperity can always command. The Secretary of State, however, carefully avoided the admission of the claim of the colonists to insist on the administration of the waste lands as one of absolute right, in which shape the petition of New South Wales asserted it; but in offering the concession on certain conditions, he put it forward as a question of expediency, and not of right. In reference to the desire expressed by the Legislative Council of New South Wales to have a reform in the constitution of the Legislature, Sir John Pakington stated—"That was a sentiment in which Her Majesty's Government fully concurred." And they believed that the rapid progress of New South Wales in wealth and population rendered it necessary that the form of its institutions should be more nearly assimilated to that prevailing in the mother country. In compliance, therefore, with the opinion expressed by the Council

of New South Wales, in favor of a constitution similar in its outlines to that of Canada, and with a view also to the most simple and expeditious mode of completing the whole transaction, Sir John Pakington proceeds—
“It is the wish of Her Majesty’s Government that the Council should establish the new Legislature on the basis of an Elective Assembly and a Legislative Council, to be nominated by the Crown.” In these comments I have selected for notice such portions only of the despatch of Sir John Pakington to the Governor of New South Wales as bear especially upon their application to the colony of South Australia, in order that the reader may be able to form a judgment as to the action of the colonial Government in introducing the “Parliament Bill” as the best mode of bringing the subject of an enlargement of the powers of the Legislature before the public, and of explaining the interpretation put on the despatches by the Executive Council. I have italicised such of the quotations as seemed to refer most directly to the questions likely to be raised in the Legislative Council and elsewhere. These questions were the nature of the constitution of the two chambers, and especially of the Upper House, upon which there were great differences of opinion, the minority at that time contending for an Elective Upper House instead of the proposed Nominee Chamber; the Government contended for the Nominee basis as being in accordance, apparently, with the

wishes of the Imperial authorities then in power, and therefore more likely to secure the assent of Her Majesty to any Bill referred home embodying that principle. The Opposition took an opposite view, and contended for an Elective Upper House as most in accordance with the wishes of the colonists, by which the Home Government, they maintained, would be influenced, as implied in the concluding words of the despatch of Sir John Pakington, of December 15th—words which I have drawn special attention to in my quotation.

The views of the Opposition were considered to have derived strength from subsequent despatches addressed to the Governor by the new Secretary of State, the Duke of Newcastle, a change of Ministry having taken place in England during the short period elapsed between December 15th, 1852, and February 8th, 1853, the date of the Duke of Newcastle's despatch referring to Sir John Pakington's previous instruction to Sir Henry Young. The new Secretary of State, however, on January 18th, in writing to Governor Sir Charles Fitzroy, used the expression which I now quote:—"I have to state, then, that my colleagues and myself cordially adopt the conclusions of Her Majesty's late Government respecting the administration of the waste lands of the Crown. You inform me that a committee of the Council is engaged in the preparation of a scheme for the amendment of its constitution. As such a measure is impending, it

is only necessary for me now to inform you that as soon as it has passed the Legislature of the province, and received the approval of Her Majesty, the disposition of the waste lands, and the appropriation of the fund arising out of their sale and management, will be placed without reserve under the supervision and control of the Legislative authority in the colony. I am ignorant of the shape," His Grace continues, "which the project under the consideration of the committee of the Council may eventually assume. The Legislative Council, indeed, in the petition before adverted to, favored a constitution similiar in its outline to that of Canada." This paragraph seemed to admit of the implication that the Duke of Newcastle might give his sanction to any other form of government, although differing from that adopted in Canada, which his predecessor had apparently recommended when he ventured to express "*the wish of Her Majesty's Government that the Council should establish the new Legislature on the basis of an Elective Assembly and a Legislative Council to be nominated by the Crown.*" At this distance of time, and in view of actual results, I am inclined to favor the implication above urged; and I cannot fail to remark that the Duke of Newcastle, while not expressing any particular views as to the constitution of the Upper Chamber, did not suggest that Her Majesty's Government would have objected to a Legislature consisting of one chamber only

There is no question that the constituencies desired

an Elective Upper Chamber, as public meetings were held throughout the country urging their representatives to press this view in Council; and a petition, numerously signed, was actually forwarded home praying for the disallowance of the Parliament Bill then transmitted to the Secretary of State, on the very ground of the Nominee Upper House provided in that Bill. I have now given the reader extracts from the despatches on which the Legislative measure, known as the Parliament Bill of 1853, was based in accordance with the interpretation put upon them by the existing government in the colony. To be wise after an event is very easy. But we have reason for congratulation that the Nominee principle gave place to the Elective system, adopted when the Parliament Bill was disallowed, and our present Constitution Act, considered and framed by a Legislature expressly summoned after reference to the Constituencies, to ascertain the wishes of the colonists and decide the question. As a matter of history it will be necessary to relate the steps actually taken in their proper order before the final consummation, and the arguments used in the Legislature during the discussion on the Parliament Bill in 1853, as they prepared the subsequent Council to reconsider the various questions, other than the mere construction of the Upper Chamber, with a full knowledge of the strength of parties, the wishes of the colonists, and the views of the Imperial authorities.

CHAPTER V.

Continuation of the rule of Sir H. E. F. Young to its close in December, 1854—Assembling of the Legislative Council on July 21, 1853, to discuss the Parliament Bill on the basis of two Chambers; one of them elective, the second nominated by the Crown on the invitation of Sir John Pakington, Secretary of State for the Colonies—Struggle of the Liberal party against nomineeism—Union of the Conservatives and Liberals to secure Self-government as opposed to the power of the Crown—The power of the purse placed in the hands of the people's House, and provision made against the predominance of the Nominative Chamber—Judges and ministers of religion disqualified from sitting in Parliament—The Civil List submitted to a Special Committee—Their Report differs from the Schedules of the Government—The Committee propose the payment of bonuses instead of pensions to officers displaced by the Act—The Government adopt this recommendation—The question re-opened in 1854 in another session—The Crimean War—Summary of the most important Legislative Measures of Sir H. E. F. Young—No despatches from the Colonial Office declaring the views of the Government on the Parliament Bill—The departure of Sir H. E. F. Young to assume another Government.

THE quotations which I have given from the despatches of Sir John Pakington and the Duke of Newcastle, who succeeded him as Secretary of State for the Colonies, will put the reader in possession of the motives which induced the Lieutenant-Governor, Sir Henry Young, to place before the Legislative Council the Parliament Bill of 1853, in which it was proposed to form a new constitution on the basis of two Chambers, one to be entirely elected by the people and the other nominated by the Crown. This Bill

passed the Council on November 10th, 1853, and was forwarded to the Imperial Government for the confirmation of Her Majesty. On December 9th, Sir Henry Young prorogued the Council which had been in session since July 21st of that year. The Parliament Bill was afterwards strenuously objected to in addresses from a large body of colonists to the Secretary of State, which were specially referred to in a despatch from Lord John Russell to the then Governor, Sir Richard MacDonald, dated May 3rd, 1855. In that despatch Lord John informed the Governor that after fully considering the question Her Majesty's Government had come to the determination that it would be advisable to introduce no measures in the Imperial Parliament that session to enable Her Majesty to assent to the Parliament Bill of Sir Henry Young, which would consequently remain imperative. In simple language the Parliament Bill had been disallowed. This measure had been fully and freely debated in its passage through the Legislative Council, and the Colonial press made a complete report of the arguments adduced on both sides. At that period there was no acknowledged authoritative record of the speeches made in the Legislature, as we have them at present reported in *Hansard*. Hence I cannot do better than refer to the newspapers of the day as the best vouchers I can supply of the proceedings. The *Adelaide Observer* of Saturday, August 6th, 1853, gave a full and reliable account of the speeches on Mr.

Dutton's motion in favor of an Elective Upper House, which was defeated on Friday, August 5th, by the previous question moved by Mr. Younghusband. And in the *Adelaide Times* of Thursday, February 12th, 1854, a statement appears explaining the course of the proceedings and undertaking the defence of the Government on the two principal questions which had been referred to in the addresses alluded to in Lord John Russell's despatch (No. 3) of May 3rd, 1855. This paper was evidently prepared by some person writing in the interest of the Government, who was well-informed of the facts; but as strong personal views appear to have moved the author, which I am not prepared to place before the public, I shall only quote what I deem to be historical passages, in which facts are given within my personal knowledge, leaving out much that has ceased to be of any interest since the Parliament Bill was disallowed, and has been superseded by the more perfect measure which resulted in the the Constitution Act of 1856. As soon as Sir Henry Young communicated the despatches of Sir John Pakington and the Duke of Newcastle to his Executive Council, they advised him to call to his aid the official and non-official nominated members of the Legislative Council. After much deliberation it was agreed that the despatches should be communicated to the Legislative Council at the next session, together with a Bill which it was believed was prepared in strict accordance with these despatches, and which, as the

result of mutual concessions, all the official and non-official members, who had assisted, declared their readiness to support. Before coming to this conclusion the Government had discussed the propriety of making the despatches public through the press, and also the expediency of a dissolution of the Legislative Council. It was considered more respectful to the Legislative Council to communicate the despatches officially to them at their next meeting. And it was not deemed advisable to dissolve the Legislative Council since there would have been a difficulty in constituting a new one, arising from the defective organisation of the constituencies occasioned by the rush to the goldfields during 1851 and 1852, which vitiated many of the electoral registers and lessened for an indefinite period the number of votes. When the Government thus decided upon taking the initiative in proposing to the Legislative Council a Bill to establish a Parliament in South Australia, it was under the conviction that a large majority in the Council and amongst the electors were in favor of some legislation with a view to extend the Constitution Act of February 21st, 1851, and secure complete self-government.

These and other considerations led to the introduction by the Government of Sir Henry Edward Fox Young of "the Parliament Bill of 1853, which provided for the separation of the Legislative Council as then subsisting, into a Parliament to consist of two

chambers—one to be nominated by the Crown, the other to be elected by the people.” This Bill was submitted to the Legislature on July 21st, 1853, was read a first time on July 26th, and the second reading was made an order of the day for August 9th. In the meantime Mr. Francis Stacker Dutton, the elected member for East Adelaide, tabled a notice of motion to the effect “that the Upper House of the two chambers should be elective.” At this time Mr. John Morphett, one of the nominated non-official members, was Speaker of the Legislative Council, an office to which he had been elected on August 20th, 1851, and which he retained in subsequent Legislatures until August 15th, 1855, when the Council existing on the arrival of Governor Sir Richard Graves MacDonnell was dissolved by him. The Legislature in 1853 was therefore deprived of the vote of one of the nominated members of the Council; and on the other hand the elected members had lost a vote by the resignation of Mr. John Hart, the member for Victoria, on July 7th. The effective members were therefore reduced from twenty-four members to twenty-two during all the discussions on the Parliament Bill of 1853. Mr. Dutton’s motion led to a very warm discussion, which extended over three days, when it was brought to a close by “*the previous question*,” moved and carried by Mr. William Younghusband. The previous question was settled on a division in a house of twenty-two members, exclusive of the

Speaker, by the votes of fifteen members against seven, constituting a majority of eight in favor of the previous question. Seven Government nominees voted with the majority, and eight elected members, viz., Mr G. M. Waterhouse, Mr. B. Neales, Mr. W. Younghusband, Mr. J. Ellis, Mr C. S. Hare, Mr. J. Baker, Mr. J. H. Fisher, and Mr. Robert Davenport. Mr. Dutton's motion in favor of an Elective Upper House was not settled, but only shelved by this result. On August 9th the Government proposition came on for discussion, and after a debate of two days the Bill was read a second time, on a division by seventeen votes against five. The opposing members on the elective side consisted of Mr. W. Giles, Mr. W. Peacock, Mr. G. F. Angas, Mr. J. T. Bagot, and Mr. W. Scott. Thus the Government carried the principle of nomineeism on this occasion by a majority of twelve votes. The ayes consisted of seven nominated members, and ten out of the fifteen elected members. This result had been brought about by a negotiation between the Government and the elected members, by which it was understood that the constitution of the Upper House might be altered, "*if at any time after the expiration of six years from the time of summoning the same, any Bill shall be passed by a majority, consisting of not less than three-fourths of the members of the House of Assembly, changing the constitution and mode of appointment of the said Legislative Council, it shall be lawful for the*

Governor to reserve the same for the signification of Her Majesty's pleasure, and the said Bill, if assented to by Her Majesty, shall become law, and be valid to all intents and purposes."—(33rd clause.) This was the celebrated compromise which secured the votes of a sufficient number of the elected members to carry the Parliament Bill with a Nominee Upper House. Not only were the elected members in 1853 powerful enough to carry this clause in the Parliament Bill, but so careful were they to guard against the probable obstructiveness of the Upper House, that in the 32nd clause of the Bill, as it appeared in print, it was provided that "*whenever any Bill which shall have been passed by a majority of not less than two-thirds of the members of the Legislative Assembly, shall not have been agreed to by the Legislative Council, it shall be lawful for the Governor in his discretion, if the same Bill shall at any time during the next session of the Legislature be passed by a like majority of the Legislative Assembly, to assent to the same in the name of Her Majesty, and upon such assent the same Bill shall become law, and shall be valid and binding to all intents and purposes within the said province.*" In the printed clause (No. 26) in the same Bill the Legislature provided that every person authorised by law to make an affirmation instead of taking an oath, may make such affirmation in every case in which an oath is hereby required to be taken. The principal speakers in opposition to the principle of nomineeism

for the Upper House, were Mr. Francis Stacker Dutton, Mr. George Fife Angas, Mr. G. M. Waterhouse, Mr. George Strickland Kingston, Mr. John Tuthill Bagot, and Mr. William Peacock.

In the important debate on the second reading of the Government Bill, which came on for discussion on August 9th and was concluded on the 12th by the triumph of the Government party, the records show that Mr. Dutton and Mr. Kingston voted for the second reading, although they had led the opposition to the nominee principle which had been shelved by the previous question. This change of front was owing probably to one or both of the following causes:—The Colonial Secretary had stated that unless the principle of a nominated Upper House were carried the Government would withdraw this Bill altogether, which would have been fatal to all legislation on the subject of a new constitution. Since parties amongst the elected members were too much divided to hope for such an agreement amongst themselves as would make it possible to frame and carry any other measure against the compact phalanx of the Government, however small. Mr. Kingston and Mr. Dutton withdrew their opposition, rather, it would appear, than peril the Bill altogether, with the loss of the control of the land fund which would have resulted. Or these two members, like many others on the elective side who had spoken strongly in favor of the elective principle for the Upper House, may have been

influenced in the votes they gave by the *compromise* which had been entered into between the Government and the Opposition; and to this view I am inclined to attach the greatest weight. The Government Bill was completely altered by this compromise. The power of the Legislative Council was manifestly neutralised by the clause which provided that a majority of not less than three-fourths of the votes of the Assembly could change the constitution of the Upper House in any way they might desire, after a trial of six years; subject, not to the assent of that House, but solely to the approval of Her Majesty, for whose assent any such Bill would be reserved. The Democratic party in the House were well satisfied on such terms, to permit of the passing of the nominative principle; but they still guarded the claims of the Representative Assembly by the proviso afterwards introduced in the Bill of Sir Richard Graves MacDonnell at the instance of Mr. Kingston in 1855, that all money Bills should originate in the House of Assembly, and still further to overcome the obstructiveness which their instinct, as it were, suggested to them would be inherent in a second chamber more conservative in its nature by the mode of its nomination, and by its more enduring tenure of power, than the House of Assembly elected under a liberal suffrage; it was provided in the Parliament Bill of 1853, as I have stated, by the 32nd clause that the Governor might assent to any Bill passed for two successive sessions without

agreement by the Legislative Council, provided a majority of not less than two-thirds of the members of the Legislative Assembly concurred in passing the Bill, and upon such assent of the Governor, without even reserving the Bill for Her Majesty's approval, the Bill would become law. With such vast powers conferred upon the Assembly the Upper House would, as Mr. John Baker in his speech on August 4th agreed, "be too easily made the shadow of the lower one." And yet Mr. Baker, who had in the commencement of his speech expressed himself favorable to a compromise, voted for the second reading of the Bill; and no doubt it was the protective clauses suggested in the compromise, against the dreaded overwhelming power of the Crown foreshadowed in a nominated Upper House, that determined him and many other elected members to support Democracy as having its expression in the Lower House, rather than make an Upper House independent of the popular will, and perhaps an instrument of the dominant power of the Crown. New South Wales, as Mr. Baker remarked, "had accepted the nominated Upper House of Sir John Pakington, with a very large Civil List, and what was worse in the view of the hon. member who sat on his right (Mr. G. F. Angas) an annual grant to the Church." It was this compromise, then, that occasioned what I have termed a changed of front on the part of Mr. Kingston and Mr. Dutton. They were now satisfied with the Government Bill, which very much curtailed

the dignity of the Legislative Council and reduced their powers of obstruction within the safe limits necessary, in the view of a liberal representative body such as the House of Assembly was made at the hands of the Democratic party.

Various public meetings had been held in the country districts in opposition to nomineeism, but it was not until October 6th that any petitions reached the Legislative Council. On that day Mr. Neales, the Member for North Adelaide, presented a petition praying for delay in the passing of the Constitution Bill until sufficient time had been afforded to the constituencies to pronounce their views. But there was another source of discord which I now proceed to explain. In the despatches from Downing-street, it was stated that a civil list should form part of the Legislation on the subject of Legislative reform to secure the salaries of the Governor, the Judges, and the chief officers of the Government against the inconvenient effects of an annual vote. In accordance with instructions, therefore, Sir Henry Young introduced a Civil List Bill, concurrently with the Bill to amend the Constitution. The schedule to the Civil List Bill, which set forth in detail the salaries of the officers to be protected, was laid on the table of the House of Assembly on July 21st, and passed its second reading on August 16th, when the schedule was referred for consideration and report to a select committee, consisting of Mr. John Baker (chairman), assisted by Mr.

George Marsden Waterhouse, Mr. J. Ellis, Mr. G. S. Kingston, and Mr. Edward Stephens, who was one of the nominated non-official members of the House ; the others were chosen from the elected members. The Government schedule A in the Civil List is here given as printed at the time :—

A.

PART I.

| | £ | s. | d. | £ | s. | d. |
|------------------------------------|-------|----|----|--------|----|----|
| Salary of Governor | 4,000 | 0 | 0 | | | |
| Salary of First Judge | 1,700 | 0 | 0 | | | |
| Salary of Second Judge | 1,500 | 0 | 0 | | | |
| Salary of Advocate-General | 1,200 | 0 | 0 | | | |
| Salary of Solicitor-General | 1,000 | 0 | 0 | | | |
| Salary of Crown Solicitor | 700 | 0 | 0 | | | |
| | | | | 10,100 | 0 | 0 |

PART II.

| | | | | | | |
|---|-------|---|---|-------|---|---|
| Salary of Colonial Secretary | 1,500 | 0 | 0 | | | |
| Salary of Under Secretary | 600 | 0 | 0 | | | |
| Salary of Colonial Treasurer | 1,000 | 0 | 0 | | | |
| Salary of Auditor-General | 800 | 0 | 0 | | | |
| Salary of Clerk of Executive Council | 400 | 0 | 0 | | | |
| Salary of Collector of Customs | 800 | 0 | 0 | | | |
| | | | | 5,100 | 0 | 0 |

PART III.

| | | | |
|--|---------|---|---|
| Annuities to existing incumbents of offices liable to removal on the commencement of this Act | 2,000 | 0 | 0 |
| [Upon the demise of these officers, their respective annuities to revert to General Revenue.] | | | |
| Total | £17,200 | 0 | 0 |

In the Civil List Bill itself it was provided—" that the sums to be allowed by way of compensation to any Officers of the Crown liable to be removed, shall not exceed two-thirds of the amount of the salary of

such officer as fixed for the year one thousand eight hundred and fifty-two, and shall in all cases be deducted from the amount of the salary of any other office under the Crown which any such officer may hold for the time being ; and a list of such allowances, and of the persons to whom the same shall be granted, shall be laid in every year before both Houses of Parliament of the said Province."

In the proposed schedule of the Government the salaries of many officers—that of the Governor, for instance—were increased to meet the higher responsibilities involved ; and some additional offices were introduced to meet an advanced condition of the colony, and the requirements of responsible Government. It should be observed also, that as certain officers would be displaced by the operation of the Parliament Bill, a compensation clause was introduced, to provide annuities for them at the rate of two-thirds of their existing salaries. These officers were the Colonial Secretary, the Colonial Treasurer, the Collector of Customs, the Commissioner of Crown Lands, and the Advocate-General. The amount of annual charge to meet these annuities, as proposed by the Government, was £2,000. In a memorial, the principles of which were made the subjects of discussion at a meeting held on January 10th, 1854, at the Norfolk Arms, an hotel in Adelaide, the nominee element in the Parliament Bill, which had then been sent home for the consideration of Her

Majesty's Government, was strongly denounced; and the four public officers for whom gratuities had been voted, instead of annuities, were held up to reprobation, on the alleged ground that these officers had voted in the majority on a question in which they were personally interested, contrary to the practice of Parliament. Indeed, the question of gratuities to these officers, it was declared by the memorialists, should be left to the decision of the Legislative Council to be summoned prior to the amendment of the Constitution coming into effect, &c. (*See the Adelaide Times* of Thursday, February 12th, 1854.) The Parliament Bill of Sir Henry Young was ultimately disallowed; and this decision of Her Majesty's Government was conveyed to the Governor, Sir Richard Graves MacDonnell, in a despatch from Lord John Russell, dated from Downing-street, on May 3rd, 1885, which reached South Australia on August 11th of that year. This despatch acknowledges Sir Henry Young's despatches of November 5th and 28th, 1854, enclosing copies of proceedings of the Council, and of two addresses relating to the Parliament Bill. No special mention is made of the memorial adopted at the Norfolk Arms, and the reasons given for the disallowance of the Parliament Bill and Civil List Bill are thus stated. The Secretary of State says:—"The result, however, which I deduce from the documents before me, is that if the Council were about to undertake legislation on this subject, unfettered by previous pro-

ceedings, they would reconsider that portion of the Bill which relates to the construction of the future Legislative Council." No allusion is made in Lord John Russell's despatch to any other cause for the disallowance than the question of the construction of the Upper House. He may have come to this conclusion from the circumstance that most of the elective members who voted for the Bill had spoken against the nominative principle, and that the Government had experienced a difficulty in obtaining a majority for their measure, so much so that a compromise had been necessary on the subject of the Upper Chamber, without which there is a strong probability that the Government Bill would not have been passed. This compromise indicated a strong objection on the part of the majority of the elective members to the nominative form proposed for the Upper Chamber. The protest against the granting of gratuities as compensation for loss of office, really, therefore, formed no factor in the decision arrived at by the Imperial authorities to cause the disallowance of Sir Henry Young's Parliament Bill. Yet it unquestionably led to exasperation on the part of some of the elective members, and to expressions in the Legislative Council which justified the conclusion that a nominated Upper Chamber was opposed to the wishes of the elected members generally, and of the community at large. I have no doubt that in proposing and upholding in the Legislative Council the Bill as originally introduced, Sir Henry Young and his

advisers believed they were supporting the unalterable policy of the Imperial Government, as represented by Sir John Pakington, irrespective of their own opinions, and they were content to see the Upper Chamber reduced by the compromise and by the proviso as to the initiation of Money Bills to little more than a Court of Revision. It may be well, therefore, to complete the history of the Parliament Bill by giving a short account of the Civil List Bill. It was introduced at the same time as the Constitution Bill, and was read a second time on August 16, when a special committee was appointed to consider and report on the Government schedule of salaries, &c. The committee consisted of four elected and one nominated non-official members, whose names have been already stated. After taking evidence the committee brought up their report, which was read and ordered to be printed on September 20th. On October 19th the Civil List schedule was brought on for discussion. It was contrasted with that of the special committee, who had proposed reductions in parts Parts I. and II., which related to the salaries of the principal officers of State, and who had materially altered Part III. of the schedule which provided for annuities to existing incumbents of offices liable to removal on the commencement of the Act. An animated discussion ensued, which resulted in the passing of the salaries proposed by the Government in the schedule to the Civil List Bill, as I have previously stated them

under Parts I. and II., without a division. On the question of "Bonus by way of compensation" to the incumbents of offices liable to removal under Part III. of the schedule, the Council divided; when it was decided by twelve votes against seven, that the proposal of the special committee, in which they substituted a bonus of four years' salary for the Government scheme of annuities should be adopted, except as to the bonus to the Advocate-General, which the committee had recommended at £1,000 only, but which by the division this day was stated at £3,000, or four years' salary, as in the other cases. Part III. then stood thus:—"Bonus by way of compensation to the present incumbents of offices liable to removal on the commencement of the Act"—

| | | | £ | s. | d. |
|--|-----|-----|-------|----|----|
| Colonial Secretary, four years, present salary | ... | ... | 3,400 | 0 | 0 |
| Adv. cate-General | " | " | 3,000 | 0 | 0 |
| Colonial Treasurer | " | " | 2,600 | 0 | 0 |
| Collector of Customs | " | " | 2,000 | 0 | 0 |
| Commissioner of Crown Lands | " | " | 1,400 | 0 | 0 |

An effort was made on November 2nd to revise this decision before the Civil List Bill had passed its third reading, as it did on that day; and for this purpose a motion was brought forward to recommit the schedule annexed to the Bill with the object of bringing Part III. into agreement with the report of the committee. The motion for recommitment was lost on a division by eleven votes to eight, being a majority of three on the part of the Government. In this majority, however,

the votes of the Colonial Secretary, the Advocate-General, and the Collector of Customs were included. This particular division was subsequently made the subject of special animadversion by Mr. Kingston and the memorialists of the Norfolk Arms, and was brought forward in the Legislative Council at a later period, viz., on November 22nd, 1854, to which I shall presently refer. (*See report in S.A. Register of November 23rd, 1854.*)

It is to be observed that the amendment to the report of the select committee on the subject of the "Bonus by way of compensation, in lieu of annuities" was carried against the committee and their supporters on October 19th, 1853; and that the sole difference was the sum to be paid to the Advocate-General, Mr. Hanson. "It was thus *not one of principle*, but one affecting the number of years' compensation to be given to an individual incumbent of office." In consequence of that amendment some of the members of the committee subsequently voted against the Government, but the amendment was carried, notwithstanding, by a majority in which the Government officers voted, but from which they might have withdrawn their votes without affecting the result. The members of the Government, at the public meeting of the Norfolk Arms and elsewhere, were held up to obloquy and misrepresentation by the memorialists on account of this simple difference of opinion between Mr. Kingston and his party respecting the equitable

claims of one individual. So true it is that feeling enters largely into the consideration under which any public question is viewed. Feeling, in this case, led to the change of views of members, who otherwise would have voted with the Government, and in some measure contributed to the opinion arrived at by Lord John Russell, that the Legislative Council of South Australia, if unfettered by previous proceedings, would reconsider the question of the construction of the Upper House.

Some men hold strong views on the subject of pensions, and no doubt there are so many instances in history of rewards bestowed by the possessors of power upon worthless individuals, that a feeling has become prevalent in free countries that gratuities and rewards for alleged public services are so often misplaced, that the abolition of the principle altogether would be followed with fewer evil consequences than attend its maintenance. Yet there is an obvious distinction between the recognition of claims for compensation for positive injury inflicted—as in the case of the members of the Executive Council—and rewards for services alleged to be performed in the interest of the public or of a private firm. Banking firms, large mercantile establishments, provide retiring gratuities to men who have devoted the best years of their lives to the profitable interest of their employer. The Judges of the land have suitable provision for their retirement

in old age ; and other civil servants whose whole time and talents are devoted to their official duties may justly claim, and political expediency may admit, that a life of toil in faithful and useful service should not end in destitution in old age. Members, too, of church associations are not indifferent to the wants of those who minister for their spiritual hopes and fears. But it is easy to arouse amongst the greater number of the community feelings opposed to the recognition of superannuated service, from the benefits of which, as a class, they appear to be excluded. Yet infirmity and destitution in a class whose employment in prosperous countries where industries are varied and extensive enough to suit all capacities, is always secure and recognised as claiming direct aid from the State or from the community who may happen to be in better circumstances. These remarks have been suggested by the course taken by those members of the community in South Australia who in their opposition to the principle of pensions, gratuities, or annuities, on whatever plea they may be sought for, unguardedly propagate injurious misrepresentations. We have seen the views expressed by the memorialists of the Norfolk Arms. The question did not end there. The Legislative Council which passed the Parliament Bill of 1853 was prorogued on December 9th and met again in session on August 2nd, 1854. On November 22nd, during that session, Mr. Kingston, with a brief introduction, moved—"That an address

be presented to His Excellency the Lieutenant-Governor stating that on November 2nd, 1853, a motion to recommit the schedule annexed to the Civil List Bill was negatived by a majority of eleven to eight—such majority comprising the names of the Colonial Secretary, Advocate-General, and Collector of Customs, each of whom was personally interested in the bonus proposed to be given in such schedule of the Civil List Bill to themselves individually, as the present holders of the offices of Colonial Secretary, Advocate-General, and Collector of Customs respectively, and inasmuch as it appears to the Council that it is contrary to the practice of Parliament to allow members to vote on questions in which their private interests are involved, and that votes so given may be afterwards struck off. This Council now request that His Excellency will be pleased to bring the foregoing statement of facts to the notice of Her Majesty's Principal Secretary of State for the Colonies." Before going into this question it will be well to review past proceedings to some short extent. Thus the records show that the Parliament Bill of Sir Henry Young passed the Legislative Council on November 10th, 1853, and the Civil List Bill on the same day. The motion of Mr. Kingston, quoted, was brought before the Council in a subsequent session in November, 1854. Twelve months had thus elapsed since the passing of the first Bill, and there had been ample time for the Secretary of State to return that

Bill to the colony with the affirmation of Her Majesty; but amongst other causes of delay it must be observed that an Act of the Imperial Parliament would have been required before the Queen could give her assent to the measure since the royal prerogative of disallowance of Bills in general had been adverted to in the Act of 1853. The Russian war had also intervened. The session of the Imperial Parliament in which the Colonial Bill would be discussed would have been the session of 1854, which, in the usual order, would be prorogued at the end of September. The Secretary of State would have his hands full of important business connected with the preparations for war, and there was ample cause for delay in taking the steps necessary to complete our Parliament Bill independently of any reference to the colony on the subject in the meantime.

Mr. Kingston's motion on November 22nd referred to a Bill which had passed the Council for more than twelve months, and in another session. This circumstance alone tends to show that it was a proceeding that must have had a hopeless aspect even to himself of having any practical result as affected the operation of the Civil List Bill. It could have no other effect than to prejudice the position of the holders of office aimed at in the resolution, and to forward his own views in opposition to a pension list. That he succeeded in adding to the disfavor with which the principle of pensions or rewards for past

services was and is still regarded is manifested whenever a question arises in the Legislature involving that issue. Government annuitants are to this day taunted and insulted at public meetings by the reckless statements of misguided orators. Hence I deem it of sufficient importance in a history of responsible government to state the considerations under which the action of those members of Parliament who by their votes contributed to the passing of the existing Civil List in South Australia, are justified. The whole question was fully stated in the Legislative Council on November 22nd, 1854, by myself, as Colonial Secretary, speaking in reply to Mr. Kingston (as see report in the *South Australian Register*, of November 28th)—“The Colonial Secretary said he would, before the question was put, say a few words, lest he should be supposed to have given his assent to the principle asserted in the motion, namely, that the votes of the persons named by him on the occasion referred to should be struck out. He would also caution the Council to hesitate before it admitted such a principle. He would go at some length into the question—more to set the Government officers right out of doors, than to inform honorable members, as they must be familiar with the facts under which the Government officers voted. People out of doors did not so well know the facts, and the subject was made the means of throwing much undeserved odium on the officers in question, with a view, no doubt, to involve them in some degree

of unpopularity. The despatch of the Secretary of State, proposing a change in the Constitution of the colony, required, as one of the conditions of the change, that there should be a Civil List ; therefore, it was in fact a part of the Parliament Bill, although for the sake of convenience brought forward in a separate form. When the Government brought that measure before the House, they had to consider that there were a number of officers in that House who would by the new Constitution, in the event of non-election, be deprived of their offices. The Constitution of the Lower Chamber by the new Bill required that every member of the Government should gain his position, or retain it, by election to a seat in that Chamber. Consequently if an officer could not gain his election he would lose his office. Again, if after election they could not command a working majority in the Chamber they must resign. And there was another contingency. Supposing them elected and having the confidence of a majority, the Governor might not approve of their policy ; he might select one or two, and say to the others—Gentlemen, your policy is not in accordance with mine ; and in that case also they would have to resign. First, they might not be elected ; secondly, if elected they might not be able to secure a working majority ; and thirdly, the Governor might disagree with them. Under those contingencies it was almost a matter of certainty that some—and perhaps all the officers of Government—would lose their present

appointments. It was necessary, therefore, to provide for those officers, some of whom had abandoned professions, and others had devoted the best portion of their lives to the public service; and it was but fair that their services should secure them the same competency they would have gained in other pursuits. It was proposed that the officers whose position would be jeopardised by the Bill should retire on an allowance equal to two-thirds of their existing salaries. This would have entailed an annual charge of £2,000, and a clause was introduced into the Civil List Bill to that effect. It was also proposed that this pension should be merged, in case the individual again took office under the Crown. It was only in the event of their being out of office that the pension should be drawn. He called special attention to that, because he wished it to be distinctly understood that the Government did not originate the scheme of compensation that was afterwards passed with the Civil List Bill, and which was made the subject of so much animadversion out of doors. It was a scheme proposed by, with one exception, elected members of the House, who had been appointed by the House to enquire into and report upon Schedule A, Parts I., II., and III. of the Bill. The committee proposed the substitution of a sum of money by way of compensation. He would have to go again into the question—which he thought he had gone into for the last time, when the Civil List Bill was introduced—namely, the ground upon which those

officers claimed compensation. He would inform the House by reading documents that it was a claim admitted by Her Majesty's Government. It had been repeatedly admitted by the Colonial Office; and there was no doubt that had the Council passed a Bill depriving the present holders of their offices, Government would have disallowed the Bill. In the Parliamentary report of the *Spectator* of April 15th, 1854, the following passage would be found:—‘Sir John Pakington asked whether it was true that the House of Assembly in Newfoundland had lately refused to proceed with business unless responsible Government were conceded to that colony, and whether Her Majesty's Government had consented to establish responsible government in Newfoundland, and, if so, upon what conditions? Mr. Peel said the statement was correct. Meanwhile, however, before the Government were aware of the course taken by the Assembly they had forwarded a despatch to the colony intimating their readiness to concede a system of responsible government to Newfoundland so soon as certain conditions were complied with. Those conditions were that the holders of existing offices rendered liable to displacement should be indemnified; that the number of members of the Assembly should be increased from fifteen to thirty, not by doubling the number of representatives of the different districts, but by the subdivision of their districts; and, lastly, that the salaries of members and the expenses of

candidates at elections should not be paid out of the colonial treasury, but, if paid at all, by a local assessment on the different districts.' That, he considered, was an admission of those officers for indemnification, and the right of the Governor to ask it at the hands of the Council. He would next read from the evidence of the Registrar-General before the select committee on the Civil List Bill:—'I would call the attention of the committee to a despatch from Earl Grey to Lieutenant-Governor Sir John Harvey, Lieutenant-Governor of Nova Scotia. However desirous the people of Nova Scotia may be to establish the principle of responsible government they would, I feel assured, shrink from effecting any reform, however great or necessary, at the cost of injustice to individuals. Now when individuals have engaged in the public service under a belief, sanctioned by custom, that they obtained a tenure of their offices during good behaviour, it would be most unjust to change that tenure to one of dependence on a parliamentary majority without ensuring them a provision that would make up for the loss of official income. I think that the consideration that the improvement grasping at any particular office would necessitate the provision of an adequate pension for its occupant, will be a salutary check on any disposition to carry party government beyond its just limits. This condition must be applied to the removal of those public officers who now have seats in your Executive Council, unless

where they have clearly accepted office on an understanding to the contrary effect.' He had no doubt that evidence induced the committee to allow the claims. He would say that the committee not only acted in accordance with the views of the Home Government but also as was done in other colonies. He held in his hand a report of the select committee on the constitution of New South Wales, in which occurred the following paragraph:—'The large increase in the the item of pensions over the corresponding item in the present schedule is intended as well to provide a superannuation fund for the judges and other public functionaries after a certain period of public service as to pension off those heads of departments to whom it is considered that the faith of the Crown is pledged as to the permanency of these offices. In proposing a grant, however, for the latter object it is considered that upon the demise of the parties thus pensioned off this portion of the pension fund should again sink into the consolidated revenue of the colony.' That recommendation was adopted by the Council of New South Wales. Again, with regard to Victoria, the 58th clause of the Constitution Act provides that not more than £5,250 shall be payable by way of pension or retiring allowance to those officers who, on political grounds, may retire or be released from office. The clause also fixes a scale of pensions ranging from two kinds of salaries for officers who had served ten years and downwards. Thus it appeared that the Victorian

Government introduced into their Bill a far more liberal provision than was asked here for the Government officers. All the officers in their schedule, with one exception, exceeded ten years' service. More than one Secretary of State had affirmed the principle that they were entitled to compensation. The legislators of the neighboring colonies had made provision to meet similar claims, and the Council had also provided most liberally for retiring officers. They had been by no means behindhand in the matter. When a committee on the Civil List Bill was proposed the Government did not oppose it, and its members steadily avoided being placed upon it. Thus it was composed, with one exception, of elected members, and two of those members were afterwards found voting against the Government. The committee was composed fairly, and free from all Government influence and control in any way. He would not go into the matter at great length, but simply say that the committee agreed to the principle of providing for the officers in question as proposed by Government, but altered the mode. Influenced, perhaps, by the general unpopularity of a pension list, the committee thought it would be more in accordance with the public feeling to put the pension aside, and pay down as compensation a sum of money. If the committee had intended it to be in lieu of a pension, they would have calculated upon a larger sum, but perhaps it occurred to them that those officers might again accept

public employment. The committee recommended, on grounds fully stated in their speeches, that the compensation should be paid, not upon loss of office, but upon the Act coming into effect. Upon that question a long debate arose and a division took place, which resulted in a majority of seventeen to one. That decision was consecrated by the approval of the honorable member for the Burra, as he voted with the majority—one elective member voting against it, and another leaving the House in disgust. It was, therefore, not right that the members of the Government should be held up to public odium with reference to that principle, for it did not originate with and was not carried by them. It was not carried by Government influence; it was carried by seventeen members of the House against two. He had gone into that statement of facts, because it appeared to him that the motion of the honorable member for the Burra would convey the impression that the Government in this matter had done something which was against the wish of the Council, and in itself unlawful. It was quite true that three members of the Government voted on the division that negatived the recommitment of the schedule, but it was too late now to refer to that with a view to rescind the votes or cancel their effect. If the Council thought proper at the time, the reception of the votes might have been opposed; but as well might it be sought to invalidate an Act of Council on the ground that a member had voted improperly, as to

seek to disturb that decision of the Council. He could not suppose that the object of the honorable member for the Burra in bringing forward that motion was to throw odium on the officers of the Government. The question of bonus was carried by a majority of five, so that if the four officers in question had been out of the House, the bonus would have been carried." Mr. Angas enquired "where was that division to be found?" The Colonial Secretary went minutely and carefully through the division lists to show that in each instance the result would have been the same if the Government officers had not voted. He argued, however, that even if they had been bound to refrain from voting when the question of bonus was directly before the House, the same rule would not apply when a motion was made to recommit the Bill, and thus reopen a question which had once been decided by Council. After any Bill had passed through Committee, and the report had been brought up, it was the usual course for the Government to offer no further opposition, even though some of the clauses might have been passed against their opinion; for at that stage of the proceedings it was fair to consider discussion at an end. The question, at the moment he referred to, was not whether the Government officers were to receive a particular bonus, but whether the whole Civil List Bill was to be adopted. They were no more liable on that occasion to a charge of voting money for themselves, than they were when they voted upon the

Estimates or the Appropriation Act. To carry this point no further he would only say *that as it had gone forth to the public that the Government officers had voted the bonus to themselves, it ought to be made known that such was not the case, and that the result would have been the same had they refrained from voting.*

I have now said enough in explanation of the motives which induced the Governor, Sir H. E. F. Young, to propose to the Legislative Council a vote of indemnification to the Executive Councillors who would be displaced by the operation of any Act establishing responsible Government. The arguments in support of the principle derived from expediency and justice were generally that the chief officers of the Government were suddenly called upon to surrender positions and incomes of immediate and prospective advantage as the price of great benefits accruing to the public conferred on them by the Imperial Government, which custom led them to expect were held on a permanent tenure dependent on good behaviour alone—that, besides the present advantages of power and income, they had expectations of increase of salary in a comparatively new and rising colony; of promotion in other colonies since they were recognised Imperial officers, and that in losing office they would enter upon a new career at a period of life, the best years of which had been devoted to the public service with the acquisition of experiences

useful to the public but not to themselves, in a new sphere of competition with others trained from youth upwards in mercantile and speculative pursuits. The advantages gained to the community at large as the issue of responsible government for which these officers were to surrender their prospects in life were complete self-government; supreme power in framing their own laws; complete control of revenues hitherto under the management of the Crown, namely, the proceeds of the sale and lease of the waste lands within the province, and the appointment to all public offices; and, in fine, the sole control of the public purse, whether in taxation or expenditure. This was the meaning of responsible government. The Parliament Bill of 1853 changed South Australia from what is known as a Crown colony, in which all the functions of government are under the immediate control of the Imperial authorities at Home, into a free colony, administering its own internal affairs without interference from abroad. There is no doubt that Sir Henry Young gave his own tone to the instructions of the Colonial Office as contained in the despatches which invited him to frame a new constitution, and carried his Parliament Bill through the exercise of all the powers and influence which his position gave him. And he was not beyond the influence of others high in position in the Government, and high in influence and social prestige amongst their fellow-colonists. He was a perfectly just and incorruptible man as regarded

the patronage of office; and though imbued with liberal principles, as a politician, always kept Imperial prerogatives in view; and in the conflict of Conservatism and Democracy, which he was destined to witness but not to control, he kept a firm grasp of the reins of power, and found amongst his official adherents some whose views naturally turned in the direction of maintaining the power of the Imperial Government as the only safeguard against the encroachments of Democracy. Anyone who reads the speeches in the Legislative Council and takes note of the proceedings of Sir Henry Young and his official advisers, with respect to the Parliament Bill, cannot fail, I think, to trace in some of his supporters in the Council the peculiar views to which he himself was prone by temperament and position. It was fortunate, however, for the colony that those views, as far as they tended to uphold the power of the Crown, were not successful, and that public opinion, though reticent or repressed at the time of the passing of the Parliament Bill of 1853, made itself felt in Downing-street, and ultimately gave us complete self-government without the adoption of the obnoxious element of nomineeism in the structure of the Upper House in 1855-6. Not a voice was raised in favor of that principle when the subsequent measure for the amendment of the constitution on the basis of an Elective Second Chamber was introduced by Sir R. G. MacDonnell. Conservatism, which had sided with

Liberalism when the power of the Crown was to be encountered and resisted, yielded without a struggle before the overwhelming weight of public opinion on that issue; and South Australia from being a Crown colony emerged a free colony with two Elective Chambers, when Her Majesty's Government, by a special Act of Parliament, conceded the full control of the waste lands of the Crown and obtained the assent of Her Majesty to the Constitution Act of 1855-6. With complete self-government guaranteed by responsible government, South Australia was really converted into a Republic in all but the name. Our constitution is Republican clothed or incrustated with monarchical forms.

With such a measure of freedom what we have chiefly to guard against is the corruption which may emasculate our Parliament if the constituencies permit themselves to be bought and sold and handed over as in America to the grasp of capital. There are two modes in which corrupting influences are brought to bear. Firstly, at the hustings during election times when specious promises are made to the ears of the electors, by which the Democracy may be cajoled into placing men of opposing interests into power; and, secondly, in the Parliament by "log-rolling," as it is familiarly termed. According to this system local interests work together to vote for some special improvements or measure in the districts having representatives duly pledged, and contribute to the overthrow of

a Government having the general interests in view, or cause embarrassment to the public Exchequer by forcing a reluctant but yielding Government to acquiesce in public expenditure at variance with a just and economical administration of the general revenue. But there are other methods of corruption which are sometimes practised. Votes in the House are bought and sold through the abuse of patronage, and through the influence of wealth used to secure the success of measures useful to a class but injurious in general results. I am not picturing a state of corruption which really exists at the present time, but am pointing to possibilities in the future, when, unless public opinion is wisely instructed, the Democracy will be overweighted by the influence of capital, and public liberty surrendered to associations, cliques, and factions. The example of party Government in the United States should serve as the note of warning, and Democracy, whose will is the only supreme power amongst free nations, should watch carefully the signs of the times. I am using the term Democracy not as designating the uneducated masses alone, or the ultra-liberal party, but the whole body of the people, when I speak of their will as supreme. And in sounding the note of warning let the community jealously watch an element in the midst of us, which in a great degree governs the Press in this country. (See Mr. Marcus's work on South Australia, CXXII. p. 138), in which the following passage

occurs : — “ The Congregationalists, Baptists, and Presbyterians, occupy a different ecclesiastical position, and aim at a more restricted work than the churches I have already referred to. Their work lies principally in the centres of population where they manage to attract the intelligent, hard-headed and practical men amongst us. Members of these churches are foremost in political life, and they come to the front in business and political organisations. They are rich in handsome churches, and strong in social influence. Their ministers are amongst the best educated and the most eloquent preachers in the colony, and their people amongst the well-to-do colonists. *The conduct of the Press of the colony has been very much in their hands.*” As Mr. Marcus before his connection with one of the leading daily newspapers acted as a preacher in one of these churches, he may be considered as good authority when he makes the statement I have quoted. It will be seen that I allude to the power of the clergy in South Australia. Through the agency of the Press which it controls it seeks to instruct and guide public opinion, and aims at *political power and influence through religious organisation*. The growing tendency of this power in the State is to dominate the civil power exactly as the Established Church of England influenced the action of the State when the pilgrim fathers fled from persecution and preferred civil and religious liberty in the desert to bondage in the city, when they emigrated from the shores of

England and founded the States of New England. That character has been modified by time and surrounding circumstances, but in its root-power it is still there. The same thing is witnessed in these southern colonies (of Australia) of the British Empire. (See Mr. Marcus, Chapt. I. page 3.) Mr. Marcus published his book on South Australia in the year 1876, long after the period I have been alluding to. But the lesson it teaches is well worth recording, as it displayed its effects in 1853 in a marked degree, when the encroachments of this religious element were anticipated by a provision in the Parliament Bill, which formed the 16th clause of the Act, as laid on the table of the Legislative Council. The clause disqualified ministers of religion of whatever denomination from sitting in the Legislature, a provision extended to the Constitution of 1855-6. The founders of the colony used their efforts to prevent the establishment of a Church in connexion with the State, and so strong was public opinion against religious or denominational domination that the public sentiment was reflected in the Legislative Council of 1853, and subsequently made itself felt in our present Constitution Act. South Australia has succeeded in dispensing with a State Church on the Episcopalian models of England and Rome ; but only, possibly, to exchange it for a denominational influence imbued with the old ambitions and aspirations in political and social matters, which, in the place of the *laissez faire* system

of individualism so vigorously and pertinaciously contended for as necessary against encroachments on the liberty of the subject and on trade relations, strives to substitute its own views of intolerance and centralisation. Over-government, whether in Church or State, is the worst form of misgovernment. So thoroughly practical were the fathers of representative government in South Australia that in the Parliament Bill of 1853 they abolished the solemnities with which certain strictly Civil Acts had been enshrouded, and substituted affirmatives for oaths in matters connected with parliamentary forms; thus freeing those ceremonies from the glamour of religion in which they had been enveloped, as they had previously declared against State aid to religion and rendered marriage a civil contract, valid by registration without religious sanction.

I shall claim for those statesmen who took part in the discussions on the Parliament Bill of 1853, the merit as well as the honor of having fought the battle of freedom. They were beyond question the fathers of the free political institutions we enjoy; for although defeated in their first attempt to secure responsible government yet they created and shaped the public opinion, which was found to be irresistible in 1855-6; and, practised in debate, they secured for us ultimately the most complete system of freedom compatible with the sovereignty of the mother country. In the enjoyment of the powers of self-government now

possessed their labours and sacrifices may be forgotten, unless the historian of the past acknowledges the debt of gratitude and recalls, for the information of a distant posterity, the memory of their names in indelible print. The record of their names on the present occasion is accordingly, as an act of justice to them, now given as part of the text of this work.

LIST OF THE NAMES OF THE LEGISLATIVE COUNCILLORS WHO
TOOK PART IN THE PROCEEDINGS OF THE SESSION WHICH
PASSED THE PARLIAMENT BILL OF 1853.

OFFICIAL MEMBERS.

1. *† Boyle Travers Finniss, Colonial Secretary.
2. *† Richard Davies Hanson, Advocate-General.
3. *† Robert Richard Torrens, Registrar-General.
4. George Frederick Dashwood, R.N., Collector of Customs.

NOMINATED NON-OFFICIAL MEMBERS.

5. *† John Morphet, Speaker Elect.
6. John Grainger.
7. Edward Castres Gwynne.
8. Edward Stephens.

ELECTED MEMBERS.

- | | | | |
|-----------------------------------|-----|-----|--|
| 1. *† John Bentham Neales | ... | ... | North Adelaide |
| 2. *† Francis Stacker Dutton | ... | ... | East Adelaide |
| 3. * James Hurtle Fisher | ... | ... | West Adelaide |
| 4. * William Scott | ... | ... | Port Adelaide |
| 5. *† William Giles | ... | ... | Yatala |
| 6. George Marsden Waterhouse | ... | ... | East Torrens |
| 7. Charles Simeon Hare | ... | ... | West Torrens |
| 8. *† William Peacock | ... | ... | Noarlunga |
| 9. *† John Baker | ... | ... | Mount Barker |
| 10. Robert Davenport | ... | ... | Hindmarsh County |
| 11. *† George Fife Angus | ... | ... | Barossa |
| 12. *† John Hart | ... | ... | Victoria (resign'd July 7, re-elected Aug. 1, 1854) |
| 13. *John Tuthill Bagot | ... | ... | Light |
| 14. *† William Younghusband | ... | ... | Stanley |
| 15. *† George Strickland Kingston | ... | ... | Burra |
| 16. John Ellis | ... | ... | Flinders |

NOTE.—Those names to which the * (asterisk) is prefixed also served in the Legislative Council which passed the Constitution Act of 1855-6. Those names

The rule of Sir Henry Edward Fox Young is now brought to a close. It cannot fail to strike the reader that it was full of incidents; so much so that a short summary of those events will be necessary to connect into one view the importance which attaches to the period from August 2nd, 1848, when he assumed the reins of power, to December 20th, 1854, when he left the colony. During that time Governor Young passed 133 legislative ordinances, being, on an average, more than twenty-two in each year. His first important Act was to bring about the abolition of the claims of the Crown to a royalty on metalliferous lands then and for ever. This subject has been fully explained when detailing the proceedings of Colonel Robe as Governor. It was settled when Sir Henry Young gave his assent to an ordinance to quiet titles to land granted by the Crown under reservation of a royalty on metallic ores on August 14th, 1849. His next important measure was the introduction of the railway system into South Australia on February 19th, 1850. Then followed the ordinance which on February 21st, 1851, gave the first representative form to the Legislative Council of the Province. The Act of December 19th, 1851, was another measure conducing to the just administration of the law in cases of claims against the Crown which had previously been

to which the † (dagger) as well as the asterisk is added were also members of the first representative Legislative Council in 1851. Thus nine elected and four nominated members of the first representative Legislature also took part in framing the Parliament Bill of 1853 and the Constitution Act of 1855-6.

subjected to a very expensive form of procedure through petition and not through the courts of law like the claims of individuals against one another. An Educational Act was also passed on December 29th, 1851, to provide for the erection of schools and the payments of stipends to teachers. This Act, which carefully guarded against denominational religious teaching, has formed the equitable and politic basis of subsequent legislation on the same subject. Then came the discovery of gold in Victoria and the rush of our working population to the diggings, the injurious effects of which were mitigated by the Bullion Act. The District Councils Act was a step in the preparation for self-government, and followed in November, 1852, whilst about the same date a new Marriage Act removed some of the religious difficulties which then attended the marriage ceremony. Then the Parliament Bill of 1853 occupied the attention of the enlarged legislature created in 1851. The Russian War in the Crimea disturbed the course of government in the following year, and fully occupied both the Government and the Legislature in making provision for defence which resulted in the Act of September 14th, 1854, to "establish a Volunteer Military Force in South Australia," and the further provision "to organise and establish a Militia Force in South Australia." Enrolments of volunteers were amongst the precautionary defensive preparations with the necessary organisation and training of volunteer

companies. Lastly, the material interests of the community were vigorously studied and provided for by the Gawler Town Railway Act of December 15th, 1854, and a loan of £100,000 was added to the colonial debt for the deepening and improvement of the Harbor of Port Adelaide.

The history of the career of Sir Henry Young is now buried in the archives of one generation, and the struggles of South Australia in those early times to win for herself at least an equal place in that greater State, which will shortly arise out of the consolidated resources of the various Provinces of Australasia, are probably little known by the rising generation since their history has not been written. I have attempted to chronicle them, and having been his chief official adviser, from his advent amongst us to his departure, I am at least qualified to bear testimony to events passing under my own view "*quorum pars magna fui.*"



CHAPTER VI.

Administrature of Acting-Governor the Honorable B. T. Finniss, Colonial Secretary, from December 20th, 1854, to June 8th, 1855—Antecedents of Mr. Finniss previous to his assuming the Government of South Australia—Is appointed Assistant Surveyor to Col. W. Light, first Surveyor-General—Is promoted successively to be Commissioner of Police and Police Magistrate, Registrar-General, and Treasurer, and finally Colonial Secretary—As senior member of the Executive Council he assumes the reins of Government on the departure of Sir Henry Young—Review of the volunteers on May 24th, 1855—News of the Battle of Inkerman, and sympathy of the colonists of South Australia on behalf of the widows and orphans of the slain; forwards £6,000 to the Imperial Government as the subscription from South Australia to the patriotic fund—Excessive immigration of females.

ON December 16th, 1854, the Legislative Council, constituted under the first instalment of Representative Government, was prorogued at the close of its fifth session by commission; and on the 20th of the same month Sir Henry E. F. Young surrendered the reins of government. During the interregnum, which occurred between this date and June 8th following, the Government devolved on the Colonial Secretary, Mr. Boyle Travers Finniss, the senior member of the Executive Council, in virtue of the Royal Instructions, and it thus becomes my duty to allude to my own administrature of public affairs in the colony. No events of importance marked this short period. And as it may be interesting in the

future, and I trust not imputed to me as irrelevant or egotistic, I proceed to give some account of the early career of one of the pioneers of settlement in South Australia, who now occupied the most important position which a subject can attain in a British colony.

Educated in early youth at the school of the Rev. Charles Parr Burney, D.D., an eminent scholar, Mr. Finnis left that establishment to become one of the gentlemen cadets at the Royal Military College of Sandhurst. On this occasion Dr. Burney in a letter dated April 6th, 1822, to his father, said—"I am, I confess, sorry that you make him a soldier, since his disposition is not very strong towards the profession, and he has really abilities which might have enabled him to distinguish himself in some of the more studious walks in life. At his examination, previous to admission at the college, he acquitted himself excellently well—though not at all better than I had fully expected. He came in at the head of the whole sixteen candidates, and were it not contrary to the rule of the establishment to place a lad at his admission in the first class, he had satisfied his examiners that his claim to such a rank was fully made good." While yet studying at Sandhurst, Mr. Finnis's father received the following letter, dated April 16th, 1825, from Lieutenant-General Sir Alexander Hope, governor of the college:—"The Commander-in-Chief having been pleased to direct that a certain number of gentlemen cadets, distinguished for good conduct and superior

diligence in study, should be recommended for commissions, I am happy to acquaint you that I have had it in my power to recommend Gentleman Cadet Finniss as deserving to receive this extraordinary mark of His Royal Highness's approbation." On May 12th of that year Mr. Finniss was gazetted ensign in the 56th Foot, lieutenant on March 29th, 1827, and on October 24th, 1835, he sold out of the army, having in the meantime been removed to the 82nd Regiment.

In August, 1833, being in the Mauritius with the 82nd Regiment, Mr. Finniss was employed in the Department of Roads and Bridges under Colonel Staveley, Deputy Quartermaster-General, and on leaving the island to return to England he was the bearer of a letter from Colonel Staveley (father of the present Sir Charles Staveley) to Lieutenant-General Sir Willoughby Gordon, Bt., Quartermaster-General, from which I quote the following words:—"I trust you will excuse my taking the liberty of introducing Lieutenant Finniss of the 82nd Regiment, but he is an officer who has made himself so very useful in the department under my direction, that I consider it a duty to the service to make him known to you. He was to have been the bearer of a plan of the island drawn by himself from the best materials I could collect, corrected by personal reconnaissance; but Sir Charles Colville having lost his own copy was desirous of presenting the plan to you himself and took it with him for that purpose. Lieutenant Finniss will be able to give you an account

of the state of the colony for some time past. He was employed for three years in the Department of Roads and Bridges, and on that duty encamped with a gang of Indian convicts in the wildest part of the forest. He superintended the construction of one of the largest bridges that has been built here. He is the bearer of a rough sketch of it, which is not worthy of being offered to you further than to give some idea of the design. The bridge has now stood some of the greatest floods ever known in a river over which every attempt to make a bridge had previously failed from the extreme rapidity of the current and the sudden floods to which it is liable." At the period when Mr. Finnis quitted the Army steps were being taken in London for the establishment of a colony in South Australia, which had then been authorised by Act of Parliament, but was made contingent on the previous sale of land to the extent of £35,000 and other financial arrangements, to prevent the colony, in case of failure, from becoming a burthen on the Home Government. Being desirous of casting in his lot in the formation of the new colony, but, in order to be prepared for all contingencies, Mr. Finnis applied to the Horse Guards' authorities for a letter of recommendation to the Governor to New South Wales to enable him to become a settler in that colony under certain regulations for the encouragement of military officers who might choose that colony for their future residence. These regulations entitled retired officers

to a grant of land in New South Wales. The required certificate was granted, and Lieutenant Finniss received a letter from Lord Fitzroy Somerset, addressed to Sir Richard Bourke, K.C.B., Governor of New South Wales, in these terms. It was dated November 9th, 1835. "Mr. B. T. Finniss, late Lieutenant 82nd Regiment, being desirous of becoming a settler in New South Wales, under the general order of August 25th, 1834, to which the General Commanding in Chief has no objection, I am directed to annex for your information a statement of his services, and to acquaint you that his lordship is able to report favorably of his conduct on all occasions." Events, however, enabled Mr. Finniss to pursue his original intention of settling in South Australia, and, in consequence, his claim to land in New South Wales lapsed, not being exercised within twelve months of its date in accordance with the terms of the certificate. In the meantime the preliminary arrangements for the settlement of South Australia having been satisfactorily completed, and a Governor appointed by the Crown, Mr. Finniss took office under the Colonisation Commissioners, and was appointed by them one of the assistant surveyors to Colonel William Light; and on March 9th, 1836, received with his commission as such, their instructions to take command of the expedition which was then in preparation to proceed to South Australia, in the event of the failure of Colonel Light, and of his

deputy, Mr. George Strickland Kingston, to act from ill-health or other incapacity. The objects of the expedition, as detailed in the instructions to Colonel Light, a copy being furnished to Mr. Finniss, were to select a site for the first town and to survey the lands sold in England under what were called preliminary land orders.

The surveying expedition sailed from Gravesend in two vessels—the *Cygnets*, a barque of 350 tons, and the *Rapid*, a brig of smaller capacity. The *Cygnets*, Captain Rolls, with the main body of surveyors under command of Mr. Kingston, with whom Mr. Finniss was associated, left the river in March, 1836, having on board Captain Lipson, R.N., appointed Harbor Master, Mr. Morphett, afterwards Speaker of the first representative Legislative Council, and now Sir John Morphett, Dr. Wright, surgeon to the expedition, with other officers and their families. The *Rapid* left England a few days later, under the command of Colonel Light, Surveyor-General, who being an accomplished seaman and navigator, undertook the duties of sailing master, and with him accordingly the crew signed articles. First Lieutenant William Field, of the Royal Navy, acted as first officer of the *Rapid*, and Mr. Pullen, now Admiral Pullen, took the post of second officer under the gallant colonel. Being a better sailer than the *Cygnets* the *Rapid* arrived first at the *rendezvous*, Nepean Bay, Kangaroo Island, and Colonel Light was absent at Port Lincoln when the

Cygnets arrived at Nepean Bay, in September, 1836. Early in the year 1837, Colonel Light having selected the site and designed the plan of the City of Adelaide, Mr. Kingston, Mr. Finniss, Mr. Alfred Hardy, Mr. R. G. Symonds, and Mr. Ornsby, completed the laying out of 1,000 acres, and in March of that year the selection of town acres took place, followed soon after by the sale by auction of the unappropriated allotments. From this time Mr. Finniss's rise in the public service was rapid and continuous. On the death of Colonel Light changes occurred in the Survey Department, and Mr. Finniss was appointed in August, 1839, by Governor Gawler, to be Deputy Surveyor-General. On the reorganisation of the department by Governor Grey, in consequence of great reductions being required in the public service, the causes of which I have previously traced, Mr. Finniss's office was abolished, and he was made chief draftsman. But on November 3rd, 1843, Governor Grey nominated him to succeed Major T. Shuldham O'Halloran, as Commissioner of Police and Police Magistrate—an appointment afterwards confirmed by the Imperial Government by letters patent, dated November 28th, in the eighth year of the reign of Her Majesty, under the Royal Instructions contained in a despatch of November 13th, 1843, from the Right Honorable Lord Stanley. The Secretary of State, on several occasions communicated to the Governor his satisfaction of the mode in which the Police Department was managed by Mr. Finniss.

One instance only is quoted out of several similar marks of approval. Thus on September 16th, 1847, the Secretary of State, writing from Downing-street to the Governor, said—"I have to acknowledge the receipt of your predecessor's despatch (No. 27) of March 9th last, transmitting the report of the Commissioner of Police for South Australia, for the quarter ended December 31st, 1846. I have read this as well as former reports on the same subject with much interest and satisfaction, and I am happy to believe that this important branch of the Colonial administration is carried on with great vigor and judgment.—I am, &c. (Signed)—GREY."

The next step of Mr. Finniss in the public service was his appointment to the offices of Registrar-General and Treasurer on May 1st, 1847, confirmed by letters patent by warrant under the Royal Sign Manual and Signet. Through this appointment Mr. Finniss became a member of the Legislative Council, and assisted, as one of the nominated official members, both on the passing of the ordinance, No. 1, of February 21st, 1851, which created the first Legislative Council in which the representative principle was established, and in the first session of that Council which met on August 20th, 1851. Lastly, Mr. Finniss, in succession to Mr. Alfred Miller Mundy, was appointed Colonial Secretary of the Province by warrant under the Royal Sign Manual and Signet, dated the 20th day of August, 1852. On October 24th, 1856, under the new

Constitution Act of that year, he ceased to hold this office under the Imperial Government, and was appointed Chief Secretary in the first responsible Ministry of South Australia. But, not to anticipate the course of events, I must recall attention to the fact that on December 20th, 1854, Sir Henry Young left this colony to assume the Government of Tasmania, and was succeeded by Mr. B. T. Finniss as Acting-Governor. Few political events worthy of record in a brief historical sketch like this occurred during the short interregnum that preceded the arrival of Sir Richard Graves MacDonnell. The Acting-Governor received a letter from Sir Richard himself, dated January 5th, stating that he expected to arrive in Melbourne by March 6th, and expressing his deep gratification at the high position which South Australia occupied in the minds of the Ministry at Home. Great confidence, he added, was felt in the steadiness of the progress of the colony, and in its fitness for that complete self-government which was about to be conferred on it. Sir Richard adds: "I regret, however, that the wishes of the community at large as to the nature of the constitution which they desire should still be a subject of doubt, because such doubts are very likely to prevent Her Majesty's Government introducing a complete measure for South Australia during the present session, it being clearly the object of Her Majesty's Government to make the unequivocally declared wish of the South

Australians themselves the basis of all Imperial legislation on the subject. If I had it in my power to prevent these delays I would gladly do so, as I think the sooner an Assembly representing beyond all doubt the wishes of the community can be called together, the sooner will an additional guarantee be obtained for the increased prosperity of South Australia." These latter words imply that Sir Richard had been made acquainted with the correspondence of Sir Henry Young on the subject of the Parliament Bill of 1853, and with the views of the Government of Her Majesty respecting it. The disallowance of that measure was plainly foreshadowed, and also the intention of the Colonial Minister to advise the concession of complete self-government to the colonists. In what way the unanimous wish of the colonists was to be arrived at does not seem to be indicated in this diplomatic phraseology. It will be explained when I enter upon the course adopted by Sir Richard after his arrival at the seat of his Government.

Steady unexampled material progress was the condition of South Australia during the greater part of the year 1855. No exciting events disturbed the public tranquillity. We were revelling in the improved state of things which had been created by the growing wealth of the community, due to the influx of gold from the mining fields of Victoria during the few previous years. Our revenues were elastic, and

various sources of industry were developing their producing powers. The yield of copper had resumed its condition of increasing supply; a larger area of agricultural land was under cultivation than had previously been known, and a larger export of bread-stuffs was the result of a favorable season. The pastoral interest, too, came in for its share of the general prosperity, through the increased prices of live stock, and the return of labor from the diggings. The large sums raised by land sales in 1854 had reached the unexampled amount of £383,470—a larger fund than was obtained for more than twenty years subsequently, when the credit system swelled the nominal total, but not the actual receipts. This increased immigration fund had enabled the Land and Emigration Commissioners to send out upwards of ten thousand souls in thirty-three immigrant vessels. The Acting-Governor commenced his administration, therefore, under very favorable circumstances. His chief efforts were directed to complete the defensive preparations which the Russian war had forced upon South Australia. Before his departure the Acting-Governor had presented two Bills to the Legislative Council, which were promptly passed—one to organise and establish a militia force, and another to organise and establish a volunteer military force. Under the authority of the last-mentioned “Act” he appointed the Colonial Secretary to be Lieutenant-Colonel on the staff, and empowered Major Moore, of the 40th Regi-

ment commanding in South Australia, to undertake the drill and training of a volunteer force with necessary assistance. I have given in a separate chapter the outline of this movement, and I need only observe that the Acting-Governor actively supported Major Moore in his efforts to raise and train an effective force.

In the early part of the year the colonists had been deeply moved on receiving accounts of the sufferings of the British army before Sebastopol, and the unexampled carnage at Inkerman. They learnt, too, that a fund was being raised in England for the relief of the distressed wives and orphans of those who had fallen in battle, and their sympathy was aroused to add their subscriptions to this patriotic fund. Public opinion in South Australia responded to this movement, and a committee was appointed to collect subscriptions. The result was to place in the hands of the Acting-Governor bills of exchange to the value of £6,000, which he transmitted to the Secretary of State with a despatch of February 1st, as the contribution then offered by South Australia to the patriotic fund. This was acknowledged in a despatch from Downing-street of April 18th, 1855, by Sir George Grey, then acting in the Colonial Office for Lord John Russell, during his temporary absence at the Court of Vienna on diplomatic business connected with negotiations for peace. Sir George Grey's despatch was addressed to Governor Sir Richard MacDonnell, and did not reach

the colony till after his arrival in South Australia. At this period our postal service with the mother country was in a state of collapse, as the Government had cancelled their contract with the Peninsula and Oriental Steam Navigation Company, owing to the need of employing their large steamships in the Black Sea in aid of the operations of the war. The question of mail communication was a most important one for the Australian colonies, since large commercial transactions commenced as soon as the enormous yield of gold in Victoria had created a demand for imports into Melbourne on a largely increased scale. The subject had been taken up by Sir Henry Young, when on October 10th, 1851, a vote for a bonus of £5,000 passed the Legislative Council to be paid to any company who would bring mails by steam to Port Adelaide *via* the Cape of Good Hope in sixty-five days. When this offer of a subsidy was made known to the Home Government Sir Henry Young was informed in reply, that a contract had been made with the A. R. M. Steam Navigation Company to land mails at Port Adelaide bi-monthly, and the Secretary of State desired to know if the Colonial Government would continue the premium under those conditions. The proposed subsidy had been on the Estimates for 1852 and 1853, and was not claimed, as no steamer by the Cape had fulfilled the conditions of the offer. Early in August, 1853, it became known that the mail company had completely broken down, and the

Government then carried a vote in the Legislative Council increasing the subsidy to £6,000 for eight years, commencing on January 1st, 1854, to provide a bonus of £500 to every vessel, not exceeding one per month, and being under contract with the Home Government to carry the mails in sixty-eight days, the former subsidy to be kept alive notwithstanding a bi-monthly mail might have been contracted for in the meantime. This subject of mail communication had always been a cause of much agitation, accompanied with irritation, between South Australia and Victoria. The first responsible Ministry in South Australia failed to bring the matter to a successful issue. It may be well to mention before going further into the matter that the first English mail steamer arrived in Melbourne on July 24th, 1852, and that previously the service had been carried on by sailing ships, whose lengthened voyages had caused much inconvenience in the commercial world. The time lost in communication between Downing-street and these distant colonies had also been a source of much inconvenience to the administrative departments of the several governments. Now, in the year 1884, weekly mails reach us from England in thirty-five days, and the time is probably soon to be shortened. But the Suez land route was not open until after the Crimean War. The first solution of the question of steam mail communication was brought about through the proposals of Sir William Denison Governor-General in New South Wales, in a

letter from him dated March 16th, 1855, received by the Acting-Governor of South Australia embodying a proposal to re-establish steam communication between the Australian Colonies and Great Britain through the concurrent action of the colonial governments. The Acting-Governor consulted the Chamber of Commerce, and acting on their suggestion, in his reply to Sir William Denison on May 10th, he informed the Governor-General that he felt himself sufficiently informed of the state of public feeling in this colony to be enabled to state, with some degree of confidence, the views which would probably find sanction in the Legislative Council, which, be it recollected, had been prorogued since the 16th of the previous December. In his communication referred to he stated the terms which would be agreed to by the Government of South Australia were that an ocean steamer should, once a month, call off Port Adelaide, outward and homeward, as heretofore, delivering the mails within the same time as under the late contract with the Peninsular and Oriental Company, but not being bound to remain in the port longer than the time necessary for landing the outward mails and twenty-four hours on the homeward passage. To secure this advantage this Government would propose to the Legislative Council a Bill enabling them to pay over for the benefit of the company any amount not exceeding £12,000 per annum to cover the contribution of this colony to any general subsidy agreed to be

granted by the Imperial Government, by whom it was desirable that the arrangement, contract, and payment should be made. In determining the quota for each colony the number of letters sent from each respectively was to be taken as the basis of calculation; the amount, however, whilst securing a monthly mail communication from England via Adelaide to Melbourne, was not to exceed £12,000 per annum. The Acting-Governor added that assuming the Imperial Government contributed only one-half of the subsidy it would be reasonable to expect that the law by which five-sixths of the postages on ship letters between England and the Australian Colonies were now remitted to England should be modified so that each colony might appropriate its own postage and prepayment be made compulsory, maintaining only so much of the existing system as provided that the postage stamp should carry the letter free to its destination in England or the colonies. I shall have occasion to revert to this question in my remarks on the administration of Sir Richard MacDonnell, as the matter was still unsettled when he arrived. A bi-monthly mail, as I have stated, had previously existed, but the contract had broken down.

The next question of importance that engaged the attention of the Colonial Government at this time was the excessive immigration of females. The report of the secretary of the Land and Emigration Commission in London of January 20th, 1855,

informed the Government that during the past year they had shipped to South Australia in thirty-three ships 10,324 emigrants, equal to 8,709 statute adults ; 888 of these were unmarried young men of fourteen years of age and upwards, while the number of single females between the same ages was 2,403 persons. Most of these young women were factory girls and many of them orphans ; some had been employed in France in factories there, but had been compelled to return to their native country through local arrangements which had deprived them of employment. These girls had been shipped to South Australia in such numbers owing to the repeated demands for domestic servants and also with a view to equalise the proportion of the sexes. On arrival there was great difficulty in finding employment for them, as they were for the most part quite unsuited for domestic service, not having had any training at home of that nature. Hence it was found necessary to maintain them in the colony at the public expense for some long time before they could meet with situations. The cost of their passage had been at the rate of £19 13s. each adult. To this influx of immigrants must be added the excess of arrivals over departures at Port Adelaide between the adjoining colonies which, amounting to 1,363 persons, made the total immigration into South Australia during the year 1854 equal to 11,677 souls. A large immigration fund of £12,000 yet remained in the hands of the Commissioners in London on January

1st, 1855, for further emigration purposes; and additions were made to this balance through the large land sales of the previous year, which I have previously stated at £383,470, the proceeds of which had not all reached London at the close of that year. The colony was in the first half of 1855 entirely free from political excitement. The attention of the Acting-Governor had been directed chiefly to the defensive preparation, and the drill and equipment of the volunteers, when news arrived from Melbourne bringing English mails to March 5th, and news of the death, on March 2nd, of the Russian Emperor Nicholas. Our little army of volunteers, under the command of Major Moore, had now attained sufficient advance in organisation and drill to enable the Acting-Governor to make arrangements for their review by the new Governor, whose arrival in Melbourne had been announced, and who might be expected to arrive in the colony before May 24th, the Queen's Birthday, when preparations were also made for the usual levée at Government House, to be held by Sir Richard MacDonnell, of whose arrival in Melbourne by the *Blue Jacket* mail ship, on May 13th, the colonists were duly informed. It was also known that the Governor and suite had taken passage for Adelaide in the colonial steamer *Burra Burra*. But the colonists were doomed to disappointment in this respect in consequence of the delays in the passage of the *Burra Burra*. Sir Richard did not arrive at the expected time, and it devolved

upon the Acting-Governor to receive his fellow-colonists at the levée held in honor of Her Majesty's birth on May 24th. I quote from the *Adelaide Observer* of Saturday, May 26th, 1855, the following account of the levée:—"At one o'clock His Excellency the Acting-Governor held a levée at Government House. His Excellency was attended by the Private Secretary, their Honors the Judges, the Advocate-General, the Lord Bishop of Adelaide, the Acting Colonial Secretary, and Captain Freeling, R.E." (A list of 274 names followed this announcement.) "We have witnessed many annual celebrations of Her Most Gracious Majesty's natal day in this colony, and are therefore enabled to pronounce that the commemoration of Thursday surpassed that of any preceding Royal anniversary in South Australia. . . . The long array of names of gentlemen who attended the levée, elsewhere published, may vouch for the popularity of His Excellency, the officer administering the Government, and the very prevalent desire to do him honor, not only as the actual representative of Her Majesty, but the zealous and successful administrator of the public affairs of this province during a long vice-regal interregnum." After the levée the Acting-Governor proceeded to the East Park Lands Old Racecourse at three o'clock, attended by Mr. Maturin, the Private Secretary, and several other gentlemen, and inspected the volunteers drawn out in line to receive him. No movements were attempted,

as the Commandant of the volunteers, Major Moore, stated that he did not feel sufficient confidence in the training of the volunteers to do more than present them in line for inspection. The company drill had been carefully attended to, but this was the first occasion on which they had been called together for battalion movements. After riding down the line comprising two battalions, flanked by guns and by Captain Gwynne's troop of cavalry on the right, and a mounted police force on the extreme left, the Acting-Governor left the parade, and the volunteers were marched to their private parades.

My narrative now brings me close upon the advent of Sir Richard Graves MacDonnell, whose arrival had been retarded by the delay of the *Burra Burra* steamer at Portland *en route* for Adelaide. The Acting-Governor had endeavored to steer a course which led him to raise no new questions which might embarrass his successors, and his administration was confined, therefore, to keep the departments of the Government in good working order and to establish their efficiency, which had never been more complete than on the arrival of the new Governor. There were, however, two questions of importance yet unsettled. One of these was the steam postal communication with the mother country, which had been made the subject of correspondence between the Government of South Australia and Sir William Denison. Quotations in the preceding pages fully disclose the course of the

Acting-Governor, in which he sought to ascertain and meet the wishes of the colonists through the Chamber of Commerce and the Press. It will be observed in this correspondence that he committed himself personally entirely to the view that South Australia should have the full benefit of her geographical position, and that the mail ships both on the outward and homeward voyages should make Adelaide a port of call, rendering, therefore, a branch service between Adelaide and Melbourne unnecessary. The remaining question still unsettled was the form of our new Constitution, a subject on which the Government of South Australia had been left entirely in the dark. This darkness was not dispelled before the middle of August, 1855. In closing my account of the short administration of the Acting-Governor I shall avail myself of a quotation from the columns of the *Adelaide Observer* of Saturday, May 26th, on this subject, the more especially as I propose to give a full statistical account of the condition of South Australia at the close of the year 1855, in order to enable me to compare the progress of the colony when self-government was completely established in October, 1856, with its condition under existing circumstances after a trial of more than a quarter of a century. Extract from the *Adelaide Observer* alluded to:—"With the levée of Thursday the administration of Mr. Finniss as Acting-Governor may be said to have closed, and it cannot but have been gratifying to that gentleman's

feelings to have received the very large tribute of respect which was shown him by his fellow-colonists. The levée was by far the most numerously attended of any we have witnessed for several years, and although we doubt not that those who were present were actuated by feelings of loyalty to Her Majesty on the return of her natal day, and desired to express such feelings by their appearance at Government House, yet we are also fully persuaded that unfeigned respect for the character, official and private, of the gentleman into whose hands have been temporarily committed the reins of government, entered largely into the motives which induced the most unprecedented of attendance. Mr. Finniss's businesslike, though quiet and unostentatious, management of the affairs of the colony since the departure of Sir Henry Young, have given great satisfaction to the colonists; and we are glad of this opportunity of uniting with the general voice in expressions of approval of the conduct of the Acting-Governor under circumstances of considerable responsibility, of an efficient public officer and an old colonist.



CHAPTER VII.

Arrival and installation of Sir Richard Graves MacDonnell, C.B., as Governor-in-Chief—Despatch of Lord John Russell of May, 3rd, 1855, informing the Governor of the disallowance of the Parliament Bill and the Civil List Bill of 1853; dissolution of the Legislative Council thereupon—Writs issued for the election of a new Legislative Council to reconsider an amendment of the Constitution—The Governor publishes in the *Gazette* a scheme for a Constitution to consist of one chamber only; endeavors to influence the electors before the elections in favor of his proposal—His Executive Council disapprove of the scheme of one chamber—Correspondence between the Governor and the Colonial Secretary on the subject—The Governor abandons his scheme of one chamber, and proposes for consideration a Bill to establish a new Constitution of two Houses, on the model of that of Tasmania—The Governor mistrusts the views of his Executive Council on account, apparently, of the liberal tendencies of some of the members—End of chapter with remarks.

SIR Richard Graves MacDonnell, C.B., succeeded Sir H. E. F. Young in the government of South Australia on June 8th, 1854, on which day he was formally installed, being received at the public offices by Mr. B. T. Finnis, Colonial Secretary of the province and Acting-Governor. The Executive Council was in session, as requested by the new Governor in a letter to Mr. Finnis from Port Adelaide, and the oaths of office were administered by the senior member in the presence of many of the principal colonists, who had been expressly summoned to attend to witness the ceremony and hear the Commission of Sir Richard

MacDonnell publicly read. Captain Gwynne's troop of volunteer cavalry formed the guard of honor in King William-street, and a body of police were in attendance to keep the entrance to the Government offices clear for the approach of His Excellency from the pressure of the crowd which had thronged to welcome their new Governor. The Lord Bishop of Adelaide, with Mrs. Short, and other ladies, attended to receive Lady MacDonnell, who accompanied her husband. After the administration of the oaths and formal surrender of the Government, the Colonial Secretary, whose functions as Acting-Governor had now ceased, addressed a few words of welcome and congratulation in a short speech, a copy of which, at the request of Sir Richard, had been sent to him at the Port. Much applause and cheering followed, and the Governor replied in suitable terms, after which His Excellency and Lady MacDonnell left the public offices and drove to their new residence at Government House, in a carriage prepared for the occasion. The narrative of the rule of Sir Richard MacDonnell is naturally divisible into two parts, which may assume the dimensions of separate chapters. The first chapter will relate his proceedings as Governor of a Crown colony, embracing the period from his arrival in June, 1855, to the middle of October, 1856; and the second part will then commence when he became a constitutional ruler of a free colony, entrusted by Her Majesty with full power of self-government, as conveyed in the

term Responsible Government, which implied that the Colonial Ministry, also comprising the Executive Council, were responsible to the people of South Australia through their representatives in a Parliament consisting of two Elective Chambers. Sir Richard Graves MacDonnell was recalled from the West Indies, where he was administering the Government of the Island of St. Vincent, one of the Leeward Islands of the group, to replace Sir Henry Young in the government of South Australia. He received a commission as Captain-General and Governor-in-Chief—as South Australia had been raised to the position of an independent province, of which I was made acquainted in a letter addressed to me by him from London, on February 5th, 1855. The *Herald*, a London paper, received in the colony about the same time, said:—“The honor of knighthood has been conferred on the recently appointed Governor of South Australia previous to his departure for his government. Sir Richard MacDonnell is an Irishman, and son of the Provost of the Dublin University. The length and nature of his previous services may fairly entitle him to his present promotion. He has survived the ordeal of a ten years’ residence on the western coast of Africa, where he acted, first as Chief Justice in 1842, and then as Governor in 1847. He penetrated far into the interior of the country, and succeeded in conciliating the native tribes, and concluding treaties of much commercial importance with their chiefs. Those who

attempted to violate their engagements he punished by some vigorous military expeditions. But the most dangerous enemy he had to contend with was the terrible fever of the country, which seldom spares the white man, and which attacked him some fifteen or twenty times. On his return in 1852 his services were acknowledged by his being made a Companion of the Bath, and he was successively appointed Governor of St. Lucia and of St. Vincent. He is said to be possessed of very high abilities, and to be peculiarly fortunate in conciliating personal regard."

Somewhat in contrast with this friendly picture is the remark of the London correspondent of the *Adelaide Observer*, written on March 3rd. He says:—"At the late levée held at Birmingham Palace Her Majesty conferred the honor of knighthood on your new Governor, now Sir Richard Graves MacDonnell. The career of His Excellency, as depicted by our morning papers, may be true enough in fact, but they read strangely enough after the accounts received of his policy at St. Vincent. However it will be well not to prejudice him but to trust that he may pursue a more conciliatory course in Australia than in the West Indies; and this may be the case when he finds he has to deal with a thriving and intellectual colony of Saxons, rather than a handful of Creoles, half-castes, and Mulattoes." This is evidently not from the hand of a friend, and were Sir Richard arriving to govern South Australia the caution not to prejudice him

might be well timed. But now his acts speak for themselves, and the impartial historian must give the good with the bad, leaving the reader in the future to judge him as a public man when party influences and domestic attachments will have faded from the view and results only weighed in the balance. Reports of proceedings in the House of Commons published in London also gave useful information to the colonists respecting the fate of the Parliament Bill of 1853. In answer to questions from Sir John Pakington, Sir George Grey, the Home Secretary, but acting for Lord John Russell, the Secretary for the Colonies, during his absence at Vienna on important diplomatic business, said in the House of Commons that the Government did not propose to take any steps in reference to the constitution of the Australian colonies until his noble friend, the Secretary for the Colonies, should be able to give his attention to the duties of his office; at present, however, he was not sure that they were in possession of the definite decision of the Legislative Council of South Australia as to their own views upon the matter. These remarks from Sir George Grey support and preceded the statement of Sir Richard MacDonnell in his letter to me of February 5th, 1855. It was evident then at this time that the Parliament Bill was doomed, and that our new Governor was but conveying to the colony in his letter what he knew would be the action of the Imperial Government as indicated by the response of Sir George Grey. Sir

Richard, however, took no important steps in the preparation of a scheme which might meet the wishes of the constituencies, but proceeded to sound the members of the Government and other influential men whom he met, as to their views on the subject of responsible government. It was easy to gather from his conversation on public affairs that he considered such a system as in advance of the requirements of the colony and of his views of expediency. But he carefully concealed from his advisers the course he intended to pursue until receipt of Lord John Russell's despatch of May 3rd, 1855, on August 11th. I shall not hesitate to give in full the words of a despatch important in many respects. It was published in a *Government Gazette Extraordinary* issued on August 15th, which also contained a proclamation dissolving the Legislative Council of South Australia. The despatch was in these terms:—"No. 3. Downing-street, May 3rd, 1855. Sir—I have to acknowledge Sir Henry Young's despatches of November 5th and 28th last, enclosing copies of proceedings of the Council and of two addresses relating to the Colonial Parliament Bill. I will not advert in any way to the questions raised as to the motives under the influence of which certain provisions of this Bill were brought forward and discussed in the Council, farther than to express my conviction that Sir Henry Young and his advisers were sincerely anxious to carry into effect what they presumed to be the intentions of Her Majesty's

Government, and at the same time to promote the interest of the community of South Australia. The result, however, which I deduce from the documents now before me, is that if the Council were about to undertake legislation on this subject, unfettered by previous proceedings, they would reconsider that portion of the Bill which relates to the construction of the future Legislative Council. Her Majesty's Government have, therefore, come to the determination, after fully considering the question, that it will be advisable to introduce no measures into Parliament this session to enable Her Majesty to assent to the Bill which will consequently remain inoperative. They leave it to yourself to consider, with the advice of your Executive Council, whether it may not be expedient that a fresh consideration of the question should not be preceded by a dissolution of the elective part of the Legislative Council. In the meantime it is the intention of Her Majesty's Government to propose to Parliament the repeal of the Waste Lands Acts prospectively as regards South Australia so as to take effect whenever the new constitution shall be established. If, therefore, the Legislature of South Australia should think proper to pass their new Constitutional Bill within the limit of the powers given by the Act for the better government of Her Majesty's Australian Colonies (13 and 14 Vic., cap 59) their purpose will be accomplished without the necessity of further resort to Parliament, and their

Constitutional Act might receive the Royal assent after being laid for thirty days before Parliament. But with this view it would be necessary that the clauses limiting the Crown's power of disallowance should be omitted, as the law now in force on that subject cannot be altered without the authority of Parliament. This is the course which has been pursued by the Legislature of Van Dieman's Land, whose Constitutional Act has received the assent of the Crown and will be brought into immediate operation. I enclose a copy of that Act and some correspondence connected with it for your information. The other Act for granting Her Majesty a civil list will, of course, remain inoperative without receiving Her Majesty's assent. I have, &c., J. RUSSELL. Governor Sir R. G. MacDonnell, &c., &c., &c." This courteous although disappointing despatch settled the questions of the nominative Upper House and the control of the waste lands of the Crown. The South Australian Legislature was free to make both Houses elective, and no conditions were attached to the cession of the land fund. The only suggestion of importance, for it may be considered a suggestion, was the allusion to the Constitution Act of Van Dieman's Land. It was a hint which most Crown Governors would act upon, that South Australia would do well to pass a similar Act. Accordingly we find in the month of November, 1855, when a new session of the Legislative Council met to consider the question of a new Constitution in

place of that disallowed, Sir Richard MacDonnell, after failing in his endeavors to gain acceptance by the community of his own plan of a Constitution to consist of one Chamber only, placed before the Legislature a Bill based on the Constitution Act of Van Dieman's Land. But in that proceeding he strangely misinterpreted the wishes of the South Australian constituencies, if indeed he ever seriously desired to consider them, on the question of responsible government. Of this I shall place ample evidence before the reader, founded upon written and printed documents in my possession. In his communications with me he was extremely reticent, whether in Executive Council or in personal interviews—a line of conduct which I have no reason to believe he departed from in his interviews with others, his official advisers in his separate endeavors to influence them to adopt his views with due submission.

Soon after the receipt of Lord John Russell's despatch of the 3rd of the previous May, Sir Richard MacDonnell sent the Colonial Secretary the following note :—

“ Government House, August 15th, 1855.

“ My dear Sir.—I am convinced, both on general constitutional grounds, and also in consequence of the publicity already given to Lord John Russell's despatch of May 3rd last, that an immediate dissolution is at once desirable and necessary. If I had entertained any doubts on the subject they would be set at rest by the reply sent in mistake to the electors of North Adelaide, because the strict mode in which, according to that letter, the wishes of the electors are to be interpreted, amounts in fact to a poll of the constituency—who would thus be polled twice over with reference to one dissolution—which, I

take it, would be putting them to very unnecessary inconvenience. I am, therefore, convinced that the Government must lose influence and popularity every moment during which a dissolution—now become inevitable—is deferred, and the Executive be thus less able to carry on the Government in a satisfactory and energetic way. Accordingly, I last night (August 14th) decided on the course I would take, and directed a communication to be made to one of the papers, so as to ensure the earliest possible announcement of my intention. It now only remains to carry that resolution into effect, and therefore I wish the necessary Proclamation drawn up, and the writs issued returnable in as short a time as the Advocate-General thinks it possible the writs can in law be made returnable. I should say sixty days would suffice to get a new Council actually at work. I have seen Mr. Cox, who is quite ready and waits but for the Proclamation to publish a *Gazette Extraordinary*.

“ Believe me to be, most faithfully yours,

(Signed) “ R. G. MACDONNELL.

“ Honorable B. Finnis.”

A *Gazette Extraordinary* appeared on the 15th, containing the Proclamation dissolving the old Legislative Council, and in the same *Gazette* Lord John Russell's despatch, which had already been made public through private sources, was made known. In the meantime the Governor took the opportunity of talking over with the members of his Government the course he had resolved upon taking with regard to the form of the new Constitution which he proposed to submit at once to the constituencies, in order that they might have the opportunity of declaring their views before the new Legislative Council could meet in session. Then with impetuous haste he communicated to the Press, and subsequently published in another *Extraordinary Gazette* the scheme which he intended to submit to the country. The abstract of this scheme

will be found in a *Gazette Extraordinary* of August 17th, the details of which must have been furnished to the Government printer on the 16th at the latest. It is too closely connected with the history of Responsible Government to be omitted from this narrative and buried in the archives of the Government. I copy it, therefore, from the *Gazette*:—

“Government Notice. Government House, August 17th, 1885. His Excellency the Governor-in-Chief being anxious to give the electoral constituencies the earliest information in his power as to the general outline of the *new Constitution Bill*, which he may feel it his duty to propose for consideration of the next Legislative Council, desires it to be notified that it is his present intention to propose a measure in which the following general principles will be involved—1. A Single Chamber or Assembly consisting of forty members, viz., thirty-six Elective Members and four heads of the principal departments, viz., Colonial Secretary, Advocate-General, and two other officers to be hereafter determined. 2. Duration of Assembly to be the same as that of the Legislative Council under the present Constitution. 3. No special qualification of members of said Assembly, nor any disqualification except for crime. 4. Tenure of office by Government officers having seats in the Assembly to be the same as at present. 5. No Civil List, except to secure the salaries of the four Government officers holding seats in the Assembly. 6. Ample

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power to be reserved to the future Legislature to alter the details of such Bill, or effect any other change in the proposed Constitution, and resolve the Single Chamber into two. His Excellency further desires it to be notified that any Bill, such as the above, involving the principle of a Single Chamber, without a proportion of one-third Nominee to two-thirds Elective Members, will require an Imperial Act to enable the Royal Assent to be given to it; nevertheless His Excellency hopes the Legislature may meet for business on the 9th of next October, and in the course of six weeks after that date may determine on the form of Constitution best suited to the country. If, therefore, the Bill to be proposed by His Excellency be adopted before the end of next November, it might be ratified by Imperial Legislature, and returned to the country in the course of the ensuing session of the English Parliament.—By His Excellency's command, B. T. FINNISS, Colonial Secretary."

This document is remarkable for its omission to make any reference to the Executive Council, although the Secretary of State in his despatch to the Governor communicating the disallowance of the Parliament Bill, says, "that they (Her Majesty's Government) leave it to yourself (Governor Sir R. G. MacDonnell) to consider, with the advice of your Executive Council, whether it may not be expedient that a fresh consideration of the question should not be preceded by a dissolution of the elective part of the Legislative

Council." This may be explained by the fact to which I can personally testify that Sir Richard MacDonnell was impatient of advice even in his Executive Council. He never courted it until responsible government was established, and he always showed his dislike to it by interrupting the Speaker before he could conclude an argument. He talked you down in short, and it was dangerous to oppose the policy of a despotic Governor in a Crown colony. The loss of office by his Executive Councillors was certain to follow the institution of responsible government, and would have been equally certain under the proposed scheme of Sir Richard MacDonnell, because the failure to carry his measures in the Assembly, which would have been the natural consequence of the increase in the number and proportion of the elective to the Government nominee members, would have left the Government in a contemptible position, and have led a man of Sir Richard's temperament to attempt a possible remedy by bringing about a change in the members of his Executive Council. The Parliament Bill of 1853 recognised the altered tenure of office of men who could retain their position only by leading the majority of the elected members in the Lower House, and provided what at that time the Council deemed a just and adequate compensation. Under the altered circumstances, occasioned by the disallowance of that Bill, Sir Richard MacDonnell in his proposed new Constitution possibly thought to conciliate the

Opposition, who had succeeded in defeating the Parliament Bill through their memorial to the Imperial authorities by leaving out the question of compensation together with responsible government. Regard for their own interests rather than for the wishes of the whole community was put forward in an article from Adelaide, dated November 20th, 1855, and published in London in the *Australian and New Zealand Gazette*, as the moving principle which regulated the advice and action of the Executive Council during the discussions in the old Legislative Council when the new Constitution resulting in the Parliament Bill was under consideration; and Sir Richard MacDonnell may have feared that the liberal tendencies of some of his own Executive Councillors, in any fresh consideration of the subject under the influence of such motives, would induce them to favor the democratic party in the colony. History is concerned with motives no less than with actions of public men, since actions are regulated by motives. But the difficulty of arriving at an accurate judgment of motives is enhanced when we come to view them in connection with the political situation. Sir Richard MacDonnell was eminently reticent as to his intentions until the promulgation of his scheme for a reform in the Constitution published by him in the *Government Gazette* of August 17th, 1855, although he sought in the strongest expressions, in every conversation with me on such public matters,

to discountenance the principle of self-government as applicable to South Australia in its then present condition.

After the proclamation dissolving the then existing Legislative Council he prepared and directed the publication of the form of Constitution proposed by him, and finding that his project was not likely to find favor with the public and was misrepresented, as he said, by the press, he intimated to me by letter marked private and dated August 20th, that he had resolved the previous evening to publish a memorandum explanatory of the items of the sketch without further reference to the Executive Council, as it appeared to him very prejudicial to allow the comments of the Press to go forth that morning without the counterbalancing weight of his own explanations. But he added that he should nevertheless wish for the opinions of the Council on that memo., and thought it better to allow that day (the 20th) to go over first. In the meantime he wished to see me at Government House. As in conversation with Sir Richard, the Colonial Secretary failed to be able to express his own views to him as clearly as he wished he wrote to him the following letter:—

“August 21st, 1855.

“My dear Sir Richard—As we are shortly to meet in Executive Council on the subject of your memorandum explanatory of your reasons for urging the one Chamber as the basis of a new Constitutional Bill, I feel it but fair and straightforward now to state what I have felt ever since, that entertaining as I do, and did then, strong opinions

upon the impossibility of carrying in any Legislative Council, to be convened in this colony, such a Constitution, I fear I did not urge my views with sufficient firmness. To the extent, therefore, to which any opinions and firmness of mine in maintaining them would have influenced you in your course, I feel that you have not had that sound assistance from me which might have produced a different programme from that put forth. It is my duty to you, to the colonists, and to myself to tender you my opinion upon that form of Constitution which I believe will be most generally acceptable, and, therefore, which alone can be carried in the Legislative Council. With such strong convictions as I have upon the point not resulting altogether from my reasoning powers as to the theory of the best Constitution for Australia, but founded largely upon my impressions of the temper of the people and the strength of parties, it is my duty to urge them in this crisis with more force than I can do verbally, as my position of usefulness will be most enlarged if in the Legislative Council I can urge views which are the result of deliberate conviction.—B. T. FINNISS."

I should now mention that the members constituting the Executive Council met one evening, by invitation, in Government House, before the Governor published his abstract of a Constitution to consist of one Chamber, when the subject of a new Constitution was brought forward in conversation. Abstract principles were discussed, the Governor leading the conversation. This theory involved a single Chamber to be elected by a double constituency; that is to say, a proportion of the members were to be returnable by a highly qualified suffrage to represent property and conservatism instead of a separate Upper House. There was no serious discussion, but it amounted to a process of sounding the members in view of the feasibility of proposing a single Chamber, and it seems to have determined him to ascertain the views of the public by forthwith publishing his theory. The Executive Council were

then appealed to officially to confirm the Governor's resolve; and I am prepared to assert that the views of the Colonial Secretary and those of Mr. Hanson were not in favor of the scheme. I am unable to recollect the view taken by the other member of the Government, but I believe he concurred in supporting the Colonial Secretary's advice and that of Mr. Hanson. I have no copy of the memorandum which Sir Richard had written for publication in explanation of what he conceived to be the misrepresentations with which his published sketch of the Constitution had been assailed, and upon which he was about to ask for the opinions of his Executive Councillors, but I have an official copy before me of the written reply of the Colonial Secretary alluded to above. It runs in these words, viz.:—"As respects the first paragraph of His Excellency's minute, I may remark that the opponents of responsible government in the Legislative Council whilst the Parliament Bill of 1853 was under discussion urged those arguments with full weight and deprecated the introduction of what they termed party government as having a tendency to encourage a mercenary class of political speculators who in the pursuit of power would regard the emoluments of office rather than the interest of the public. That there would be such a class no one can doubt, but that they would be in such a majority as to be able to rise to power I think impossible, until the Legislative Assembly becomes what we have no reason to assume

that it will be—corrupt and embeccile. And as regards the alleged want of a sufficient number of men of administrative ability to contend for the prizes of power, I think the difficulty is more imaginary than real. Whenever the possession of office carries with it the possession of power, influence, and the confidence of a majority in the Legislature—which is implied under complete Responsible Government, as now understood by the community in South Australia—there will be found many men fit to contend for the prizes which must then be the test, as they would really be the result of ability and devotion to the public service. With such incentives to honorable ambition, the character of the Legislature would rise; seats would be sought for by the most able, the most wealthy, the most influential, and the most educated; and whilst it would call forth such men in South Australia into action, and induce them to take part in public affairs, it would tend to encourage the advent amongst us of superior men from the mother country. I cannot imagine a system which would be more pregnant with certain advantage, and which carries with it a more decided balance of good over evil. Self-government will then have the fairest field for development, and political science the highest aims and the most rapid growth which has yet been attained in the British colonies. I can only add to these arguments that as Responsible Government is admitted to be a system to which we must shortly advance, I think it should be

our object to settle all fundamental constitutional points at once, as far as they are before us, and not leave the future an inducement and an obligation to proceed in the work of changes which may be urged on under circumstances of far more political excitement than prevails at present. The next point to be considered is the single Chamber. I think that the arguments in favor of two Chambers are irresistible when the assurance has been given that the control of the land revenues will be obtained thereby, without reference to the Imperial Parliament; because an appeal to Parliament may be remote and uncertain in its issue. I am of opinion, moreover, that in adopting two Chambers the Government would have the certain support of a large majority of the elected members, whilst in the attempt to gain a single Chamber it must throw Government influence into the scale with the minority, and perhaps meet with defeat. Public feeling has become familiar with the idea of two Chambers—provided they are both constructed on the elective principle. And as there can be no doubt that national impulses are sometimes wrong, and that local influences sometimes assume the shape of general impulses, and thus acquire an injurious ascendancy in a single Chamber. It seems to me that it is for the public good that there should be a necessity for subjecting important measures to the ordeal of being deliberated on through different political mediums; organic changes, in the Constitution especially, will be

more cautiously determined after this double discussion which would ensue in the two Chambers. The evil which has recently resulted to the colony, as instanced in the necessity for the reconsideration of the Parliament Bill of 1853, might have been obviated if the subject had been considered during that session in a new point of view, such as would have been afforded by the introduction of the Bill into a second Chamber. There are other objections to a single Chamber which I shall not now urge, but advert to the arguments in its favor deduced from the supposed simplicity of its working. No doubt it would work with simplicity and dispatch whilst no cause of discord existed, and more immediate effect would be given to the united will of both powers in the Legislature. But a system which depended for its harmonious working, not upon the deliberate acts of men within different spheres of power, restrained and admitted by palpable constitutional checks, but upon the temperament and wisdom of one individual, would have within itself the elements of discord. On these and other grounds I request permission to record my opinion in Executive Council upon the momentous question now before the Governor and the public ; and in doing so I shall confine myself to a simple enunciation of that course which I believe will alone carry with it such a majority of the elective members as will be satisfactory to the colony. The measure to be submitted then should consist of two Houses, both

elective; the Government to be carried on by paid officers, who shall be required to obtain their seats by election. Such officers to be removable when the measures they proposed or defended were not supported by a working majority of the members. No Government measure to be introduced but in accordance with their advice. They should constitute the majority in number of the Executive Council or Cabinet, so as to be enabled to have a controlling voice in the decision of the measures to be introduced into the Legislature, and to give effect to the measures of the Legislature in their executive capacity. No appointment to any public office should be made without their advice and concurrence, nor any expenditure incurred without their sanction. The suffrage should be extended to the limit fixed in the Parliament Bill of 1853. The whole system, in short, should be similar to that in the Parliament Bill, with the exceptions I have mentioned, and the further exception of those clauses in the Parliament Bill which limit the prerogative of the Crown in respect of the veto upon all Legislative Acts." This long memorandum was submitted to Sir Richard MacDonnell with the Colonial Secretary's letter of August 21st, above quoted, and he received the next day the following note from His Excellency, which dropped the curtain on the constitution of one Chamber:—

“ Government House, August 22, 1855.

“ My dear Sir—I have to acknowledge the receipt of your note of yesterday, from which I gather that concurring in the ‘programme’ of a new Constitution put forth by me, you nevertheless held at the time a strong opinion of the impossibility of carrying out such Constitution. It would have been, perhaps, more useful, under the circumstances, to have expressed that opinion then rather than now. Fortunately it does not make any material difference, for I have already announced that if the country hold an opposite opinion to my own as to the fitness of this colony for Responsible Government, in the widest sense, I have no mission to press my opinion. My intention is also announced of laying before the Legislature in that case a Constitution, as similar as the different circumstances of the two colonies will permit, to the Constitution of Tasmania, transmitted to me by Lord John Russell. Having done that, I shall leave the new Legislature to decide whether they will have the Bill as proposed or not, and if not, with what alterations? I shall then transmit the result of their deliberations to Her Majesty’s Government, who will, I dare say, know how to deal with it. It is not my intention to interfere further with the expression of the wishes of the country, to which, so far as may be prudent, it will be the duty both of myself and the Executive Council to give effect.

“ Believe me, my dear Sir,

“ Most faithfully yours,

“ RICHARD GRAVES MACDONNELL.

“ The Hon. B. T. Finnis.”

This closing letter conveys the last proof that Sir Richard did not consider the country ripe for Responsible Government in the widest sense. It shows also that he had endeavored of himself to prepare the constituencies for such a form of government as he deemed suitable to them, without first consulting their representatives assembled as a Legislature. In this course he entirely mistook the character of the people he had been called upon to govern, who, accustomed to look forward to a full measure of Free Government, resented the dictatorial method he had adopted in framing, proposing, and pressing upon their acceptance,

with all the influence which as Governor of a Crown Colony he possessed, a scheme of his own, not presented to the assembled Legislature for discussion, but put before the electors for their decision at the elections now imminent. There is a natural jealousy amongst free men of any scheme or act of government, however perfect and complete it may be, which they have not themselves had an opportunity of originating or deciding. If Sir Henry Young had referred the despatches of Sir John Pakington and the Duke of Newcastle to a committee of the Legislative Council to frame a measure of their own, or if Sir Richard had followed such a course in dealing with the despatch of Lord John Russell in later times, a Constitution Act, not very much differing from that under which we now live, would probably have been the result, and political harmony, instead of this antagonism between the Executive Government and the elected members which followed, would have fused the governing and governed classes in a combination working together for the best interests of the country. As it happened suspicion was engendered, and the Constitution Act was framed notwithstanding the strenuous efforts of Sir Richard MacDonnell in the interests of what he deemed conservatism, under the predominance of democratic views, carried to the extreme limits. Sir Richard MacDonnell appears to have distrusted the advice of his Executive Council throughout his whole proceedings, and this distrust was possibly engendered

by his knowledge of the popular views they had to a great extent committed themselves to under his predecessor, and which he failed to take into account as factors which required his consideration and sympathy instead of begetting mistrust.

When I commenced this chapter I intended to extend it so as to include and conclude the rule of Sir Richard Graves MacDonnell as the Governor of a Crown Colony, which would have taken me to the end of October, 1856. But voluminous quotations, which I have deemed it necessary to put before the public, to enable them to form a just estimate of the policy of the Governor, have encroached much upon my space; and wishing also to avoid confusion in the mind of the reader, which might have arisen if I had placed before him too many considerations, I have decided to close this part of my subject and reserve for the next chapter a continuation of the history of responsible government, the struggle for which became manifest when the writs were issued for the election of members to consider a Bill to construct a new Constitution. I have described the official contest between Sir Richard MacDonnell and his Executive Councillors, who had been parties to the policy of Sir Henry Young, and the efforts of the Governor to impress his own views on the community at large, the failure of which he himself records in his note of August 22nd. There remains to relate his struggle with the members of the Legislative Council, in his

endeavors to shape their action so as to preserve to the Governor the same power in the administration that he then possessed. The further differences embracing, still later, Sir Richard's impatience of the advice of the first ministry under responsible government will be found related in a coming chapter.



CHAPTER VIII.

Government of Sir Richard Graves MacDonnell continued—Returns to the writs for a new Legislative Council—Election of Speaker—Notice of motion by Colonial Secretary to increase the Governor's salary—The Government Estimates referred to a select committee of the Council—The question of the Governor's salary again brought before the Legislative Council by elected members—Quotations from Governor's despatch to Secretary of State accompanying the Bill showing his resentment—Constitution Bill proceeded with, and second reading proposed for November 20th—Mr. Dutton's and Mr. Kingston's contingent notices of motion—Debate on November 20th—Constitution Bill passed on January 2nd, 1856—Reports of the Estimates Committee—The Estimates passed and the Legislative Council prorogued on June 19th, 1856.

THE returns to the writs for a fresh election being completed, Sir Richard MacDonnell summoned the members to meet in Legislative Council on November 1st, 1855. It was full time, for the financial year was drawing to a close, and besides the discussion certain to ensue in order to frame a new Constitution, there were many important measures for consideration. An Act to regulate the salary of the Governor was pressing, since the salary of £3,000 a year voted by the old Council was subject to annual renewal in respect of one-third of the amount; but whilst the Legislature were desirous of marking their sense of the propriety of adding to the salary of the Governor, in view of the increased cost of living since the gold discoveries, they were prepared to grant a much larger

annual sum to secure the services of able men in the conduct of the Government under Responsible Government. And as the Parliament Bill had provided for that contingency, they had taken the course of passing a temporary Act to add £1,000 a year to the £2,000, at which the Governor's salary had been fixed on Sir Henry Young's first arrival, in the full expectation that the confirmation by Her Majesty of the Parliament Bill and Civil List attached, would render unnecessary any further action on their part on that question. The Civil List Bill in fixing the salaries of the Ministry under a responsible administration, had provided £4,000 a year for the Governor's remuneration. The Estimates for the year 1856 had also to be settled before the end of December, as well as the authorisation of the excess expenditure of 1854 and 1855. But the session of November, 1855, extended over a great part of the ensuing year, and it was not until June 18th, 1856, that a Bill was passed "for the further appropriation of the revenue for the years one thousand eight hundred and fifty-four and one thousand eight hundred and fifty-five; and for the general appropriation of the revenue for the year one thousand eight hundred and fifty-six." The causes of this delay in the passing of the Estimates for 1856 are not far to seek. There were many discordant elements to be reconciled — Crown prerogatives, Conservatism, Democracy, and the wishes of the people as a whole were to be consulted and harmonised. Sir Richard

MacDonnell was a faithful servant of the Crown, if his administration of affairs during the period in which he held office as Governor of a Crown colony be considered, since he acted fully up to all his powers as such; and in his struggle with the Legislature he probably conceived he was doing his duty in maintaining all the prerogatives belonging to his situation. He was much in the position of the Royal Stuarts of England, who regarded England as being an appanage of the Crown, such as Crown colonies now are treated. The constitutional checks on the exercise of the prerogative in the time of Charles I. were gained by the nation through the intervention of Parliament, and at the cost of a civil war to the people, and of his life to the monarch. Sir Richard MacDonnell's rule was a constant and vigilant struggle to obstruct the attainment of self-government, as it was understood in South Australia by the community, without regard to the wishes of the people. In this respect, however, he had no warrant in the policy of Downing-street, if we are to regard the expressed sentiments of the various Secretaries of State for the colonies as instructions to him, and meant in all sincerity, as we have no right to doubt. The Governor of South Australia had now to shape his views of government, not only in accordance with the wishes of the governed, as he might choose to interpret them, but as they were expressed by their representatives elected in overwhelming proportion to the Crown

nominees, whose official position represented only the will of the Governor. Sir Richard found here an element of resistance to his authority, which he had to consider and take into account. It was no longer an Executive Council of officials, bound to support his policy and execute his will, with which he could govern according to his own impulses; nor a Legislative Council in which he was assisted by nominees selected from amongst the colonists by himself, and whose resolutions, if counter to his will, he could control by his casting vote. But he had on his arrival to reckon with a Legislative Council of whom two-thirds of the members were elected by the people who considered themselves the best judges of their own interests, and who could enforce their own decisions whenever they chose to be unanimous, and against which the power of the Crown by the "veto" was the only resource of an autocratic Governor. Sir Richard failed to see this new element of opposition to an autocratic ruler in its proper light, and he acted towards the elected members of his Legislative Council as he was accustomed to deal with his Executive Councillors, claiming their advice and assistance but showing himself their master. "*L'état—c'est moi*," was the motto of his Government, and he never retreated from the position whilst he held the reins of power as the Governor of a Crown Colony; and when the new Constitution was proclaimed on October 24th, 1856, he reluctantly ceased to interfere in legislation

and began to regard his ministers as men whose consent as well as advice was requisite before he could perform any Act of Government not immediately involving Imperial rights.

Sir Richard MacDonnell in summoning a new Legislative Council to frame a constitution changed the constitution of the Council as far as it depended on himself by appointing new men as non-official members, and substituting Mr. R. R. Torrens's name for that of Mr. Dashwood amongst the official members. His motives can only be divined, but it may be assumed that he wished to bring fresh men to the reconsideration of the Constitutional question whose views would not be influenced by their former votes. I shall give the names of all those, whether nominated or elected, who, by their presence and votes, formed the Legislative body that gave us the Constitution Act of October 24th, 1856, since they have become identified with the history of South Australian freedom, and will ever be remembered as the assertors of Responsible Government. The four official members were—* Mr. Boyle Travers Finniss, Colonial Secretary; * Mr. Richard Davies Hanson, Advocate-General; * Mr. Robert Richard Torrens, Treasurer; Captain Arthur Freeling, R.E., Surveyor-General. The four non-official nominated members were—* Mr. James Hurtle Fisher,

All names with * prefixed were also members of the Legislative Council of 1853, and took part in framing the Parliament Bill of that year (disallowed).

Speaker-elect in 1855; Mr. Marshall Macdermott; Mr. Samuel Davenport; Mr. Edward Stirling. The elected members, sixteen in number, were—* J. B. Neales * Francis Stacker Dutton, * William Peacock, * John Baker, * George Fife Angas, * John Tuthill Bagot, * William Younghusband, * George Strickland Kingston, * William Scott, Anthony Forster, Arthur Blyth, John Bristow Hughes, Thomas Reynolds, John Rankine, John Hart, Alfred Watts. These elected members, together with the eight nominated members, made up the number of twenty-four, constituting the Legislative Council under the Constitution of 1851. Nine of the above-named elected members assisted in passing the Parliament Bill of 1853, which was disallowed, and they were now re-elected in 1855 to discuss a new Constitutional Bill. These nine members, together with Mr. Fisher who sat as an elected member in the discussions of 1853 and was now selected by the Crown as a nominated non-official member, make up together ten men of the old Legislative Council who had now seats in the Legislative Council of 1855, and had, consequently, previous experience of the arguments used on both sides. If we add to the number the three official members of the Government, Captain Freeling not having been a member of the Legislative Council in 1853, it will appear that there were in all thirteen members who took part in framing the Constitutional Bill of 1855-6 who had also assisted in the deliberations in 1853 when the Parliament Bill of

Sir Henry Young was under discussion; a sufficient majority to give effect to the views of the promoters of Responsible Government in the new Constitution Act which superseded the Bill of 1853. The first proceeding of the Legislative Council which met on November 1st, 1855, to frame the Constitution we now enjoy was to elect Mr. J. H. Fisher as their Speaker. Mr. Fisher, afterwards better known as Sir James Hurtle Fisher, was created Knight Bachelor on August 12th, 1860, in recognition by Her Majesty of his valuable political services. He arrived in the colony in the *Buffalo* in 1836, holding the appointment of Resident Commissioner until October 13th, 1838, when the office centred in the Governor. After a Parliamentary experience of many years, Mr. Fisher became a member of the Upper Chamber of the first Parliament under the Constitution of 1856, by election on March 9th, 1857, and President-Elect on April 22nd. On February 2nd, 1865, he retired from the service covered with honors to enjoy his *otium cum dignitate*, rejoicing in a vigorous old age, and content afterwards to see his son-in-law, Sir John Morphett, succeed him in the Presidency of the Legislative Council. Of gentlemanly presence and address, he illustrated in South Australia the type of the "fine old English gentleman," a character which was always associated with him at banquets, when the toast of his name was greeted with musical honors. He brought to the colony as his

contribution to the general progress, five sons and three daughters, and another daughter was born to him within a month after the foundation of the colony. His five sons, inheriting the abilities of the father, subsequently accumulated wealth in pastoral pursuits, and three of his daughters married—the eldest to Sir John Morphett.

All the members of the Legislative Council which met on November 1st, 1855, without exception, became known to fame as successful politicians and men of business. But, alas, of these twenty-four names most of them, at the time I am writing these lines (January 17th, 1885), have passed to their long home. The survivors are B. T. Finmiss (the writer of this memoir), Sir Samuel Davenport, Anthony Forster, Sir Arthur Blyth, and John Rankine.* I have alluded to the serious work before the Council. After the election of Mr. Fisher as their Speaker, the Council had to consider a Bill to render permanent the Governor's salary. The Estimates of 1856 were also submitted to them, and the draft of a Constitution based on the Constitution Act of Van Dieman's Land. A lively opposition to the policy of the Governor was at once organised, not on any special objections to the measures brought forward, but, as it seemed, because it was the

* Sir John Morphett, one of the founders of the colony was Speaker of the Legislative Council of 1854, which was dissolved on August 15th, 1855, but his name does not appear in the list of members of the Legislative Council summoned on November 1st, 1855, to frame the new Constitution. He still enjoys a vigorous old age.

policy of the Governor, and not of a Government or Ministry which they could control or displace. The leaders of sections of the Opposition, who were always ready to unite when their own special views were not imperiled, were Mr. Kingston, Mr. John Baker, Mr. Thomas Reynolds, and Mr. Francis Dutton. Although not one of the members of the Legislative Council summoned to frame the new Constitution in 1855, Mr. Morphett appeared prominent in all political movements, both in the Legislature and on public platforms previous to August 15th, 1855. He was elected to our first Legislative Council under our present Constitution, and became its President on March 31st, 1865, succeeding his father-in-law, Sir James Hurtle Fisher, Kt., who retired from that post of honor on February 2nd, 1865. Mr. John Morphett appears on the list of non-official nominated members of the Legislative Council under the Constitution which existed from June 15th, 1843, until February 21st, 1851, up to which period the Legislative Council consisted of three official and four non-official members, all appointed by the Crown and presided over by the Governor, who had a casting and deliberative vote. Mr. Morphett again realised this position under the partly-elective Council of 1851, of which he was elected Speaker and held it until August 15th, 1855, the date of the dissolution of the fifth session of that Council. On March 1st, 1865, he was re-elected to the Legislative Council, and elected its President on

March 31st of the same year, being honored by Her Majesty with the title of Knight Bachelor on February 16th, 1870, and retiring finally from public life on February 2nd, 1873.

The estimates were easily disposed of. They were referred to a select committee for examination and report. Every department was to be made subject to a close enquiry. It was, perhaps, the opinion of many of the members that much mismanagement would be brought to light, since hitherto little was known of the internal administration, which was always shrouded in much mystery. There were also able and ambitious men in the Council, who looked forward to having a share in the administration under the Responsible Government which they were resolved to inaugurate. Such members desired to master the details of government to be the better prepared for the future. These various motives were either openly expressed or made the subject of conversation in private. The Estimates being shelved for the time the salaries were paid by votes of credit, and there was only one legislative measure passed, the Governor's Salary Bill, which became law during the closing two months of the year, and this was not completed until December 26th. It had always been the custom to fix the salary of the Governor on his first arrival when any increase was suggested, a proposal for which usually emanated from the Secretary of State, as an instruction to the Governor, for obvious reasons; this

was a wise and politic method of proceeding. It took away all temptation from a governor to regulate his conduct so as to render himself sufficiently popular to enable him to obtain an increase to his salary, without remonstrance or objection from the community he was governing; and it was a judicious mode of obviating any imputation of want of delicacy on the part of a new governor, who, under the *regime* of a Crown Colony, was required to propose the increase himself. He moved in the matter under instructions. Sir Richard MacDonnell produced no instructions to this effect, but he directed the Colonial Secretary to bring the subject forward at an early date and a notice of motion for an address to the Governor proposing an increase to his salary to £4,000 per annum, with contingent allowances of £1,500, was prepared, and appeared on the notice paper. The form of motion was drafted by the Colonial Secretary under instructions as to the amount of money items. The proposal and the preamble to the motion were made the subject of attack by the press on the morning of the discussion, and when put to the House the members declined to go into committee to consider the question. The Governor was so displeased with the result that he made the conduct of the Colonial Secretary in the House the subject of severe censure in a despatch to the Secretary of State (No. 48 of December 31st, 1855). Before the close of the year the question of the Governor's salary was again brought forward by

members of the Legislature, and an address voted in which the salary was fixed at £3,000 a year. The Governor consulted his Executive Council by placing before them a draft of the message in reply which he proposed to give to the Legislative Council. I have no copy of this memorandum, but I have a record of the advice which was then tendered to the Governor by the Colonial Secretary on the subject, from which it will be seen that the Governor proposed to reply to the Legislative Council in terms which marked his dissatisfaction with the address. This advice given in writing was in the following words, and is now in my possession:—"1. I do not concur in the terms of the message, because it would place the Governor in a false position with regard to the Legislative Council upon a point which would be regarded in a great measure as personal to himself. It would lead to the imputation that he was dissatisfied with the amount, and would be resented by the Council as a rebuke from the head of the Government, which, whether merited or not, would have the effect of creating an opposition arising out of feeling;* and as feelings influence most men as much as reason, the

* In the third report of the Estimates' Committee appointed in 1855, p. 3, the committee say—"Without expressing any conclusive opinion upon the evidence of Captain Douglas regarding the usefulness of the *Blanche*, the necessity for building or economy of keeping her your committee recommend the disallowance of the vote as an expression of the feeling of your Honorable House upon the question of unauthorised expenditure." (See also the author's remarks on the pressure of feeling brought to bear in support of that measure.)

public interests would suffer by its being called into existence. 2. The salary fixed by law for the Governor is now £2,000 a year pending the confirmation by the Crown of a Bill intended to make it £3,000 for the year 1855, which, had it been assented to, would cease to operate on December 31st next. 3. Had it not been for the general impression that the Parliament Bill would have been in operation before this date, by which the Governor's salary was permanently fixed at £4,000 a year, I am of opinion that the late Council would have fixed the salary of the Governor permanently at £3,000 a year, instead of leaving a portion of it subject to annual vote. They did not intend to degrade the position of the Governor, but when they first adopted the course of an annual vote for the increase, it was under the expectation that the necessity for increase would have subsisted only for one year, and that then the salary would have reverted back to £2,000 a year, as fixed by Act of the Legislature. But seeing on the expiration of the first term that the increased cost of living continued to bear as heavily as before upon those who had fixed incomes, they continued a provision for one year more, which they supposed would carry the Governor into the period when his salary would be fixed by the Parliament Bill, and no further legislation on that subject rendered necessary. 4. I am of opinion that the Governor should, without remark, inform the Council that in terms of their address he has caused a

Bill to be introduced settling permanently the salary of the head of the Government. This Act will be virtually repealed by the Parliament Bill, and the Governor will no doubt receive instructions authorising him to receive the augmented sum on the inauguration of the new Constitution. The Council have objected to fix the salary of the Governor at £4,000 a year, because they identified that sum with the coming into operation of a form of Legislature having extended powers. I am not advising the Governor to omit all reference to the form of notice under which I introduced the original address, from any considerations personal to myself, but because I think it would be more dignified in the Governor not to allude to an individual in his Government, or to circumstances not necessarily connected with the subject matter in the present address. (Signed) B. T. FIXNISS. November 28th, 1855." But Sir Richard was not satisfied to leave the matter in this condition. In a despatch (No. 48) from Government House, Adelaide, of December 31st, 1855, addressed to the Secretary of State in Downing-street, he encloses the Bill which passed its last stage in the Legislative Council on December 26th, at the same time censuring his Colonial Secretary in no measured terms, and complaining of his conduct as though that alone had caused the rejection of any measure to increase his salary, instead of being really but the ostensible reason. In the midst of heavy work that despatch, a very

lengthy one, was submitted to my perusal, and as I was thus afforded an opportunity of copying it I quoted only parts which related to me personally. I had no fear of the effects of those remarks upon the mind of the Secretary of State from the view of the case put forward by Sir Richard himself, and which I had no time to reply to as Sir Richard seemed desirous of forwarding his despatch at once. Under these circumstances I withheld any reply to the Secretary of State to accompany the Governor's despatch, influenced also by the consideration that I knew Responsible Government had been affirmed in the Legislative Council, and that I had sufficient support there and throughout the constituencies to secure my political position from being disturbed or injured on such grounds. Sir Richard observed to the Secretary of State in the 10th paragraph of his despatch as follows:—"10. I now enclose the very extraordinary notice of motion which Mr. Finnis, without consulting me, gave on the subject. I never saw it until in print, and then found that he had put the increase of my salary on the ground that I was no longer a Lieutenant-Governor but Governor-in-Chief. The mere announcement of such a reason was quite sufficient to insure the defeat of the motion, as also to throw ridicule on the Governor. I therefore took the *first opportunity* in my power of seeing Mr. Finnis and of directing the terms of the motion to be altered; but on further consideration next day I thought that

course insufficient, and sent him the enclosed letter requesting the motion to be withdrawn altogether, but not without consulting the Executive Council. 11. This took place on the very day fixed for the motion, and I enclose the resolution of the Executive Council in favor of proceeding with it on the understanding that Mr. Finniss should explain I had no connection with its wording. During the debate he admitted the terms of the motion to be his own, but argued the matter in a great measure on the ground contained in the notice, which grounds he knew I disapproved, and did not give the simple reason which alone justified such a motion, viz., the unavoidable necessity, through an act of the Home Government, of discussing the question at some period of the session, and the consequent propriety of taking the discussion early. 12. The result was that the Legislature declined even going into committee on the motion, and I am not surprised at such a decision, for I consider that whatever might have been the feeling of the Legislature previously they must on that occasion have been strongly biased against a motion grounded on such "bizarre" reasoning as that published by the Colonial Secretary, and circulated for some days previous to the discussion, till it had become the butt of observation in private and of sarcasm by the press in public; whilst my total disconnection with and disapproval of such reasoning was never either then or since *frankly and fully avowed by Mr. Finniss in*

the straightforward manner which I conceive *I had a right to expect*. About a fortnight subsequently the elective members themselves proposed and carried an address resulting in the Bill for £3,000 permanent salary transmitted in my despatch of this date. . . . *

15. After much consideration I therefore proposed to my Executive Council that I should send the enclosed reply," &c.* 16. I therefore felt much embarrassed how to act, but thought it would be best on the whole to let the matter drop in silence and eventually leave the colony without accepting any increase to my salary. 17. Such would most probably have been my course had I not heard accidentally that a petition to the Legislature was being numerously signed by the merchants, &c. I therefore, as the least obnoxious course, instructed the Advocate - General to lay on the Council table the next day the Bill transmitted in my despatch. 18. . . . Since then I have so much reason to know that public opinion disconnects me with the tenor and terms made by Mr. Finmiss, that I am unwilling to recur to the misconstruction to which that officer's inexplicable conduct exposed me. The despatch from which I have just quoted was forwarded to me with a note from Sir Richard MacDonnell, dated from Government House, January 16th, as follows, viz:—

* Irrelevant matter omitted.

“ My dear Sir—Being anxious to place on record some explanation of my conduct and feelings in reference to the notice of motion which you gave early in the session in respect to the Governor's salary, I have written to the Secretary of State on the subject. The enclosed was drafted some time ago, but was only handed to me for signature this day, and at the moment of signing it I considered it only fair that you should be acquainted with the opinion I express of the course which you then pursued. I have, therefore, not yet signed the despatch, but transmit it for your private perusal, and request that you will return it as soon as convenient. Believe me to be, most truly yours,

(Signed) “ RICHARD GRAVES MACDONNELL.”

The next day the Colonial Secretary (Mr. Finnis) returned the despatch, having copied the portions that concerned him personally, and which I have quoted. In returning the despatch the Colonial Secretary sent the following note:—

“ January 17th, 1856.

“ Dear Sir Richard.—I have perused the despatch you forwarded to me in reference to the Act of Council fixing the Governor's salary, and now return it without remark, other than to thank you for the knowledge of its contents, which, as far as regards me personally, may be important. I remain, &c., &c., &c.,

(Signed) “ B. T. FINNIS.

“ To Sir Richard Graves MacDonnell.”

It will serve to make this question of the Governor's salary intelligible if I give a copy of the notice of motion given by the Colonial Secretary, and which appeared in the *Times* of Saturday, November 3rd, and was also presented to the Governor by the Government printer on the same day, when he sent to Government House a printed copy of the notices of motion for the following Tuesday, in the following terms, viz:—“ Notices of motion and orders of the

day, Tuesday, November 6th, 1855. Government business: notice of motion—1. The Colonial Secretary to move—‘That Her Most Gracious Majesty having been pleased to separate this colony from the control and authority of the Governor of New South Wales, and to confer upon the Officer Administering the Government the superior title of Captain-General and Governor-in-Chief, instead of that of Lieutenant-Governor held by His Excellency’s predecessor, this Council is of opinion that the salary of the office should now be increased and settled on a permanent footing, according to the following scale, to date from His Excellency’s arrival, viz.—For salary of the Governor-in-Chief, £4,000 per annum; for contingencies, a sum not to exceed £1,500 per annum, to include the salary of the Private Secretary, Assistant Private Secretary (if necessary), Messenger, forage for three horses, fuel and light, travelling expenses of His Excellency and staff, and office contingencies generally.’” On November 5th (Monday) the Governor called at my office, and in consequence of the strictures made in public on the above notice, he himself, in his own handwriting, which I have before me, proposed the following substitute for my notice of motion:—The Colonial Secretary to move—“That it is consistent with Constitutional usage that the salary of a Governor of a colony should be settled as soon as possible after the arrival of the Governor, and that this Council is of opinion that the salary of the office should now be

increased and settled on a permanent footing, according to the following scale, to date from the arrival of the present Governor; and that a Bill should be introduced to embody the provisions hereby suggested, viz., for salary of the Governor-in-Chief, £4,000 per annum; for contingencies, a sum not to exceed £1,500, to include the salary of the Private Secretary, Assistant Private Secretary (if necessary), Messenger, forage for three horses, fuel and light, travelling expenses of His Excellency and staff, and office contingencies generally." But on the morning of November 6th, when the motion was to be discussed, the Colonial Secretary received the following note from Sir Richard. (N.B.—There had been violent attacks that morning in the daily papers directed against the notice of motion given by the Colonial Secretary):—

"To the Honorable B. T. Finnis.

"Government House, November 6th, 1855.

"My dear Sir—In reference to our conversation yesterday on the subject of your notice of motion as to the Governor's salary, I have since then considered the matter further. I feel that the reason given by you in that notice is one so calculated to throw ridicule on the Government and on myself personally—and is, moreover, so opposed to all my own reasoning on the subject, that I know of no way in which I can effectually prove how repugnant to my reason and to my feelings is the position in which you have placed me by such notice, than by requesting it to be withdrawn. I infinitely prefer either living on £2,000 per annum, or leaving the colony, which, I presume, would then be the only alternative, to having my name associated with a motion against which might have been urged, and have been urged, the most conclusive arguments. In fact, I heartily agree in everything stated by the Press this morning on the subject. The subject is one of so much importance, and so much affects, not merely my personal character and interests, but in some measure, perhaps, that of my successors, that

I am unwilling to give you any positive instructions till you shall have consulted the other members of the Executive Council. I therefore request that you will lose no time in assembling them together—calling in also the Treasurer, and having read this note request them to decide on the course which they recommend should be followed. For myself I feel so confident that every one must regard me as virtually the author of a notice which I never saw till in print, and against which I then protested, that I believe no course can so effectually clear me of all participation in a proceeding so opposed to my personal wishes, as the complete withdrawal of the motion, and the substitution of nothing else for it. At the same time you will admit, I have no doubt, that I am entitled to a full and distinct statement by you in the Council this day, and under any circumstances, that the reasoning given in your notice of motion is entirely a suggestion of your own, opposed to my opinion, and against which I forthwith protested. Believe me to be, my dear Sir, very truly yours,

(Signed) “RICHARD GRAVES MACDONNELL.”

I have italicised a few words in this note—“*Calling in also the Treasurer,*” as Mr. Torrens was not then sworn in as a member of Executive Council; also the words, “*which I never saw till in print, and against which I then protested,*” rendered more strongly in the concluding paragraph, “*against which I forthwith protested.*” The fact being that the Governor was furnished with a printed copy of the notice paper on Saturday, November 3rd, as attested by Mr. Cox, the Government Printer, and the notice appeared in the *Times* of Saturday, which the Governor always read. No objection or protest was made until the 5th, when the Governor prepared an amendment of Mr. Finniss’s notice. In obedience to the commands of Sir Richard MacDonnell, Mr. Finniss laid his note before the other members of the Executive Council—Mr. Hanson and Captain Freeling—and called in R. R. Torrens, as

directed. The result was the following resolution :—
“That in the opinion of this meeting it would be expedient for the Colonial Secretary to make the motion of which he has given notice in its present form, stating only that it was not seen by or communicated to the Governor before it was given, and that consequently he (the Colonial Secretary) is alone responsible for its form. Moved by H. D. Hanson; seconded by A. Freeling. Approved to be an instruction to Colonial Secretary. (Signed) R. G. M., Nov. 6th, 1855.” These remarks will serve to explain the meaning of the quotations from the despatch (No. 48) of December 31st, which the Colonial Secretary only copied as far as it respected his own actions in the matter of the Governor’s Salary Bill. I omit also much that passed in his conversations with the Governor when he was directed to prepare a notice of motion respecting his salary, as being too personal to be useful. The correspondence shows that Sir Richard MacDonnell was wounded and resentful at the issue of his appeal to the Legislative Council for an increase of salary, and that he attributed his want of success to Mr. Finmiss’s action. The Colonial Secretary but carried out His Excellency’s policy after expressing his own views on this particular subject and making efforts to obtain positive instructions, both as to the form and substance of the notice of motion to be given. He could only argue the question in the Legislature according to his own lights,

and he knew in the temper of the House that no form of notice to increase the Governor's salary to the extent required and suggested by himself would pass the Council. I must mention that the Governor by his own acts was at this time unpopular; but there was a court party, if I may use a phrase having great significance in English history, who were ready to assist him in his views, whatever they might be, who endeavored to sow dissensions between the Governor and the Legislature, between the Governor and his constitutional advisers, and between those advisers themselves. Differing from the policy of the press generally in the colony on these questions, persons writing, as they believed, in the interests of the Governor penned such effusions as the following, not in the local papers but in publications circulated in London such as the *Australian and New Zealand Gazette*. In March, 1856, an article of this nature reached the colony:—"South Australia. From a correspondent. Adelaide, November 28th, 1855. Since the dispatch of our last advices the most engrossing topic has naturally been the long-looked-for meeting of Council with the consequent disclosure of the hitherto carefully concealed plans and policy of Sir Richard MacDonnell; for after the reception of his 'feeler' in September last he wisely declined the repeated request of the newspapers that he would promulgate the intentions of his inmost soul; and, accordingly, nothing was divulged until November 1st.

The necessarily great delay on the return of the writ for Flinders, which at last reported Mr. Alfred Watts as the representative of that district, prevented publicity being given to the selection of nominees until a few days before they were required to assemble. Mr. Finnis and Mr. Hanson took their seats . . . as the Government organs; Mr. Torrens was again nominated, but as Colonial Treasurer instead of Registrar-General; Captain Freeling, R.E., Surveyor-General, was appointed in the place of (many say in preference to) Mr. Dashwood, Collector of Customs. Of the two first gentlemen it is fortunately necessary that we should say but little, as they are only too well known by all who take any deep interest in this colony. Let it suffice them to state that whatever their real opinions and feelings may be, regard for what they believe their interests, as throwing them with full force into the ultra-popular side without allowing them to take sufficient precautions against being thrown over. They appear not to have awakened from their pleasing dream of last June, that the *Burra Burra* steamer had gone down* and that they were the highest in the land; it would seem that there was no higher authority here to whom they owed implicit obedience, whilst they received the meed of such service; that their interests alone were to be provided for, their popularity and ultimate success made certain.

* It will be recollected that the Governor reached the colony in the *Burra Burra*.

The Tasmania *Ursa Major* of 1855* has caused them to forget that colony's *Ursa Minor* of 1852†. Strong as are the ties which bind them in the contest which must take place, on one side at any rate, with one whom they are resolved on making their common opponent none will be easier broken when it appears to either that the downfall of the other would promote himself; and though their reward cannot at present be exactly predicted or its time fixed, it must be looked forward to as a matter of certainty when the inflexibility of character of their opponent is taken into consideration along with the other numerous reasons which justify our present anticipation. Of Mr. R. R. Torrens we have only to report that he has announced amongst his friends his intention to revisit England. Brilliant as a rocket but harmless as a squib, we can recall to mind no single instance of his damaging in Council the cause of his opponents, or influencing one vote in favor of his own. Captain Freeling combines the Colonial Secretary's clearness for practical working with the Treasurer's independence of thought, and it is to be hoped will acquire the Advocate-General's fluency and rhetoric—but nothing more from that quarter—added to which he is a *gentleman*, and as such will deal with all members and questions. Had he the experience of his colleagues far more might be expected from him than can now

* I am ignorant to whom allusion is made.

† I am ignorant to whom allusion is made.

with justice be looked for. Still much good is counted on from him through a well-grounded report that the Governor courts his private advice. The non-official nominees are—Messrs. Samuel Davenport, Edward Stirling, Marshall MacDermott, and James Hurtle Fisher. The first is a useful member of the Port Railway Board, South Australian Company, South Australian Bank Directors, &c., and will, no doubt, if his health permit, prove a constant and zealous ally to his party. Few men are older colonists than Mr. Edward Stirling, in whom the squatting interest will find a friend and the Government an unprejudiced councillor. Mr. MacDermott was originally an officer in the army, then banker at Perth, Swan River; next manager of the Australian Bank at Adelaide, until deposed by a gentleman who became, however, his son-in-law, now in partnership with another son-in-law, Mr. Francis Dutton, M.L.C. Mr. MacDermott is one of the numerous Adelaide merchants with far more spare time than his friends could wish for him; of his talents we can only say that, no doubt, they will gradually appear. Of Mr. James Hurtle Fisher's legislative abilities it would be waste of time to write to those who are so well-acquainted with them. An extraordinary occurrence took place in Council on November 6th. The Colonial Secretary brought forward a motion, the wording of which he claimed as entirely his own production, for the consideration of a Bill to increase the salary of the Governor

from £2,000 to £4,000 per annum, with £1,500 for allowances, on account of the title being changed from Lieutenant-Governor to Governor-in-Chief. Such a reason was, of course, rejected as insufficient; and the Council, urged on by Mr. Baker, who of course led the Opposition, declined going into committee on the subject. Had Mr. Finniss endeavored to bring about such an end, he could not have taken different steps, and if report says true, this was a base, premeditated, but well concocted scheme for teaching the Governor the policy of conciliating his Colonial Secretary. It would appear that on more than one occasion His Excellency has deemed the advice of others preferable to Mr. Finniss's, on which the latter has thought proper to retaliate in this way, believing Sir Richard MacDonnell had so much delicacy as to feel unable to avenge himself for his loss of salary through Mr. Finniss's treacherous conduct. Mr. R. R. Torrens, Colonial Treasurer, has been appointed to a seat in the Executive Council, and may very possibly soon be senior member."

It so happened that Mr. R. R. Torrens was sworn in as a member of the Executive Council on November 19th, 1855, the very day before the date of the article I have quoted from the *Australian and New Zealand Gazette*, which was circulated in South Australia in March, 1856. In order perhaps to set at rest intrigues of this kind relative to the influence which Mr. Torrens was supposed to have in the counsels of the Governor,

which were freely circulated to do injury to the Colonial Secretary, whose influence was assumed to be waning since he had failed to secure an increase to the Governor's salary in November, 1855, and was known to entertain more liberal views in politics on the Constitution question than suited the programme of a Governor of a Crown colony not yet trained to see anything but danger to the State in Democratic tendencies, Sir Richard MacDonnell found it necessary to take a stand. It was too evident that a court party was making head in the political and social world, which although useful in a Crown colony, would be scarcely compatible with the impartial position of a Governor under Responsible Government, whose part in politics must be neutral, and whose interference with the Legislature is limited to giving effect to their decisions, and speaking to them in messages carefully suggested by the dominant party. Sir Richard accordingly took an early opportunity in a note to the Colonial Secretary, dated May 31st, 1856, to express his views in the following terms:—

“My dear Sir—As I may probably be going to Port Lincoln next week, and might forget to allude to the point to which I mean to draw your attention now, I think it as well to beg of you to take some opportunity of adverting hereafter to remarks made in the debate last night, as to the special influence of the Colonial Treasurer in the Council, and his having the ‘ear of the Governor.’ I believe it would puzzle people in every colony whose government I have administered to say who ‘has my ear’ in the sense meant, knowing, as you must, that I judge always for myself; and knowing also that the records of the Executive Council do not prove the Treasurer’s opinion to have more weight, but on the contrary somewhat less weight than that of

yourself and the Advocate-General in matters connected with the general administration of the Government, it is desirable, with a view to defeating the object of the parties making assertions of that kind, to contradict them flatly. My wish has always been that the Executive should assert and maintain its right to have an opinion of its own, and support that opinion, relying on the country's standing by it hereafter, if the course of Government be really straightforward, honest, and wise. For the policy of making a decided stand the Treasurer perhaps has given me more support than the other members of the Executive. But the policy, as based on the circular to the heads of departments, and expressed in the Government memo., was my own, and with the aid of the other members of the Executive was eminently successful. Of course the Treasurer can support that policy by arguments which have most influence with him : but I quite agree with everything which you so well said yesterday in the House on that subject. The Treasurer's individual arguments are his own, though the policy which they support may be and is the policy of the Government. Believe me, yours truly,

“ R. G. M'D.”

But I have digressed somewhat, and will now revert to the proceedings of the Legislative Council in November, 1855. The Estimates making provision for the expenditure of 1856, were shelved during the enquiry instituted by the committee, and other matters engaged the attention of the Government. The Constitution Bill was now the great question of the day. It was read a first time early in November by the Colonial Secretary, who had charge of the Government Bill, after the principles had been made the subject of frequent discussion in the Executive Council. I have said that Sir Richard MacDonnell finding his project of a single Chamber not in agreement with public opinion, which had been instructed by the framers of the Parliament Bill of 1853, fell back upon the Act of Van Dieman's Land, which had

received the approval of Her Majesty, and a copy of which Lord John Russell had transmitted to the Governor—a somewhat significant hint of the kind of measure which might be adopted in South Australia. This Bill met the wishes of the constituencies in one respect—that of the establishment of a Parliament to consist of two elective Chambers. In no other respect was it suitable to South Australian views of self-Government. It had consequently to undergo a severe ordeal before it was made acceptable to the Legislative Council. The members of the Government were well aware that it would never pass the Legislature in the form in which it was introduced, and were prepared to admit of great alterations in the Bill, which had been read a first time. As soon as the Colonial Secretary gave notice that he should move the second reading on Tuesday, November 20th, the notice paper was filled with proposed amendments. Mr. Francis Dutton tabled a contingent notice in favor of the vote by ballot. Mr. G. S. Kingston proposed a new Bill altogether in the numerous amendments which he placed on the notice paper. Mr. Kingston's notice was to this effect—"That this Council is of opinion that in order to meet the wishes of the colonists as expressed at the recent general election, the Bills granting an amended Constitution to South Australia should contain enactments carrying out in detail the following principles:—1. Responsible Government. 2. The extension of the election franchise to every male twenty-one years

of age, untainted by crime, who has been resident in and registered six months in the district. 3. The Parliament to consist of two Chambers, both elective, the Upper House to consist of twelve and the Lower House of thirty-six members. 4. The election to the Upper House to be by all the electors of the colony voting in one district. 5. The election to the Lower House to be by districts, for which purpose the colony shall be divided into electoral districts, comprising as nearly as practicable equal numbers with power of revision from time to time. 6. The qualification of voters to both Houses to be the same. 7. No property qualification for members of either House. 8. The Lower House to be elected for a period not exceeding five years. 9. In the Upper House one half of the members to retire, and a fresh election to take place in their stead at every dissolution of the Lower House. 10. All elections to be by ballot." A long debate ensued on November 20th, when the Colonial Secretary, who had charge of the Constitution Bill, moved the second reading, in which he kept within the course which had been agreed on by the Government. I give his speech in full, as printed in the daily papers on November 21st. I have omitted the speeches of other members of the House because the policy of Sir Richard MacDonnell, exercising the powers of the Governor of a Crown Colony, is shadowed forth in the statements and declarations of the Colonial Secretary :—

The Colonial Secretary said—"Mr. Speaker, I rise, sir, to move, pursuant to notice, the reading of a Bill intituled 'An Act to establish a Parliament in South Australia, and to grant a Civil List to Her Majesty.' Sir, when I laid this Bill before the House, and moved the first reading, I gave a short outline of its object, and then stated that at a proper time I should explain its principles; that time is now come, and it is more necessary than ever that I should now go fully into the principles which this Bill contains, since there is a notice before the Council, calling upon the House to consider certain propositions which profess to be at variance with the principles of the Bill introduced by the Government. The appearance of this notice, then, renders it necessary not only that I should explain the principles of the present measure, but also the differences, if any, which exist between this notice of amendment and the Bill itself. Sir, hon. members are aware that this Council has been summoned expressly to consider this important question, and that an appeal has been made to the constituencies on this subject alone. When that appeal had been made, and the members were returned, the Government considered—gravely considered—what appeared to be the wish of the country, and then, without absolutely giving up their own judgment, prepared a Bill which they firmly believed would respond to the call of the country. A Bill upon the same subject was, as we know, formerly passed by the Council, and was sent back by the Home

Government. That Bill, as it appeared to the Government, contained nearly all the principles requisite for the establishment of a Constitution in South Australia; it seemed repugnant only on one point, that relating to an Upper House. (No, no.) I am aware there are other points to which hon. members may allude. There is the ballot—(hear, hear)—but with that exception—the two points mentioned—the Bill introduced represented as fully as possible the then feeling of the people. The present Bill, sir, seeks to give effect to the will of the country, but there is only one constitutional way by which we can arrive at the will of the people, that is by the votes of their representatives in Council, and to that arbitration we this day submit the Bill now introduced. Sir, the Bill which I hold in my hand contains nine different principles, of greater or lesser importance—nine principles which may be made the subject of nine distinct discussions. These principles have all been eliminated and set forth in the notice of motion given by the hon. member for the Burra. He has fixed upon the points which will have to be contested in the House, and in going through the Bill, I cannot, perhaps, do better than follow those nine points in the same manner as they stand on the notice paper. But before I commence with that discussion, I will state that the Government desire, as much as possible, to discuss principles. They wish to avoid the discussion of mere forms which are no essential part of the

measure, and which may be disposed of in committee. This mode they believe to be the best, so that if the Council will admit the second reading of the Bill, one step will be gained in advance, and hon. members will have pledged themselves to nothing but the preamble, which simply states that it is expedient to substitute a Parliament in place of the present Legislative Council. Sir, that, I imagine, is all this Council will be pledged to if they admit the second reading of the Bill, but whilst I make this declaration I mean this—that the Government will still support, in their integrity, the propositions contained in their own Bill, but the course which any individual may take is not the slightest reason why it should not now pass a second reading. In committee, it appears to us, the best opportunities will be afforded for considering those principles to which the notice of amendment relates. When the separate clauses are discussed, then is the time for going into those principles to which such clauses refer; that course, I take it, will be both convenient and proper. I need not justify the Government for adopting this course, because it was incumbent upon them to be prepared with a Bill of their own: it must be admitted on all hands that it was an imperative duty on the part of the Government to do so, and if they had not brought in a measure, they would have been subject to the severest censure of the House; hon. members would have complained that Government had not done its

duty. We were compelled then, by a sense of duty, to bring forward a Bill, and having brought this measure forward I think it is proper and parliamentary to proceed with it, and not set it aside that other principles—or the same ones, rather—should be contested in another form by the Council. I think we may have been complained of justly if we had not taken that course. I will once more, before entering more into details, impress upon the House that I only ask the Council to go into committee on the preamble, and by so doing they will not preclude themselves in the least from afterwards either amending the provisions of the Bill, or adding to them, as may be thought fit. Now the first proposition of the hon. member for the Burra—the first, I suppose, because he considers it the most important—of which he has given notice is, that the new Bill should provide for Responsible Government. Sir, I agree with the hon. member in the importance of that question, and it is one in which the Government will go with me. That being the case, I can scarcely understand why he should move that the principle be incorporated in the Bill—that principle is already contained in the Bill. And lest hon. members should doubt this, I will point out the clauses which contain this principle. (Hear, hear.) In the 28th clause, page 7, they will find one important provision in the appointment of public offices under the Government of the province hereafter to become vacant or be created, whether such offices

be salaried or not, shall be vested in the Governor, with the advice of the Executive Council. And by clause 31 it will be seen, that the various officers designated, who are to constitute a Ministry are completely made responsible in this way, that they must be elected to their seats by the people. That clause then, by specifying that the chief officers of Government should be compelled to obtain their seats by election, would, in conjunction with the other clause, effectually provide for what is called Responsible Government—that is, officers of Government having seats in the Legislative Assembly elected by the constituencies. It is also provided, in order to enable the responsible ministers to conduct the business of the country satisfactorily, that they may sit and speak in either House—(laughter)—although they will vote only in the House to which they are elected. I have mentioned those clauses merely to point out in what respect this Bill provides for Responsible Government, and in order to show that the principle is contained in the Bill, and can be fully discussed when in committee. I shall not, however, now go into further explanation on this point, as at present I propose simply to discuss general principles. The next question the hon. member for the Barra proposes to discuss, is the Franchise, the principle of Universal Suffrage. Sir, he here scarcely differs at all from the Government. The Government has introduced the same suffrage in the present measure, as in the Parliament Bill that

was sent home, and which was then considered fully sufficient for the wants of the colony. The Government believed that hon. members would hold the same opinions on this point as they did before, and, therefore, the same franchise was retained, although it was somewhat extended. Now, Sir, the qualification under that suffrage is so low, it being extended to five pound householders and to persons rated to District Councils, that it could not be made more universal unless given to persons arriving in the colony as but yesterday. (Mr. Kingston—Six months' residence.) I come now to the third proposition of the hon. member—The Parliament to consist of two Chambers, both elective; the Upper House to consist of twelve, and the Lower House of thirty-six members. Here again the hon. member is not opposed to the Government, except in a matter of secondary importance, the number of members for the Upper House. Sir, the Government has introduced into this Bill a principle different from any contained in the former Bill—that is, they propose to increase the number of members for the Upper House, so as to give weight to its decisions, to impart a solidity to it—that it may be, as intended, a check upon hasty legislation and popular impulse—a body whose deliberations and opinions will be respected by the colony. The Upper House, proposed by the hon. member for the Burra, would be a Court of Revision. But, Sir, it should possess a substantive power in the Legislature—a power to resist if required, and so to

give effect to its decisions as to command the respect of the country. One of the modes by which this power is sought to be conveyed is by making the number of its members bear a fair ratio to the Lower House. The small number of twelve, it is thought, will be scarcely worthy of the name of a House, but will rather be a committee, and more open to local influence than if the number were increased. It is thought, sir, by increasing the number, that the House will be less liable to undue impression, and that greater respect will be paid to its decisions. Sir, I now come to the fourth proposition on the notice paper. That contains a principle diametrically opposed to the Government Bill—a principle which we shall endeavor to contest in every possible way in this Council. Sir, if we were to constitute the Upper House by one constituency, allowing the whole colony to act as one body the effect would be that the minority would not be represented in that House at all. The majority would return all the members to the Upper House, and there would be no one to represent the minority in any case. It would have the effect also of increasing the power of towns, which is the power of capital. All the strength of the colony would be given to the towns and their suburbs. It would be a power opposed to the agricultural and the pastoral interests, and to those thousand improvements so necessary to the advancement of the colony—the opening up of the interior—the navigation of the Murray, for instance.

Such would be the results. I believe, sir, that such a proposition as that, when fully considered, will be found so opposed to the real interests of the colony, that very few indeed, besides the hon. member for the Burra, will be found to support it. The next proposition refers to the election to the Lower House, and proposes that it should be—‘By districts; for which purpose the colony shall be divided into Electoral Districts, comprising as nearly as practicable equal numbers, with power of revision from time to time.’ Sir, that is a proposition which the hon. gentleman intends to move as an amendment, but it is so exactly in accordance with what the Bill itself provides, that I cannot possibly see how it is to be regarded as an amendment. Indeed, I must vote for the hon. member whilst the clause to which this refers is being considered in committee; there was certainly no necessity for thus laying down the law on the subject beforehand. The sixth proposition I find is the qualification of voters for both Houses. Here, too, the Bill and the notice are identical. Why, then, is this to be moved as an amendment? It is precisely the principle we have taken up. I need not dwell upon the importance of that principle, because all in the House approve of it. It seems to me, then, that it would be a waste of time to contest a point upon which all are agreed. So with the 7th proposition, ‘no property qualification for members to either House.’ That is a point upon which there is likely to be

no opposition whatever. It seems, Sir, illiberal and unwise to fetter the choice of the people by any sort of qualification. Such a restriction is bad in practice because it is easily evaded, and it is bad in principle because it fetters the public will. (Hear, hear.) The best qualification a member can have is that he has been elected by the voice of the people. Now we arrive at the eighth amendment—"The lower House to be elected for a period of not exceeding five years." Sir, in our Bill we have proposed five years, as with the present Council, and I think hon. members will find the best answer to any objection that may be raised is to be found in the fact that during the whole time they have been members of the Legislature, they have not differed on any material point with their constituencies who sent them here, and in the circumstance that a large number of the members have now been a second time sent in by the same districts. There is nothing then, to lead us to suppose that if the Council had continued longer it would have been found of too great a length. This, I think, proves that the period of five years is a very suitable one, and those are the reasons for its adoption. Besides, it must be apparent to all that frequent elections are a source of great disturbance of trade, and unless there is a great public object to be gained, the less frequently they take place the better. With regard to the ninth proposition, and the plan put forward by the hon. member for the Burra to

provide for the dissolution of the Upper House, I shall not attempt to speak against it, because the hon. member himself is now satisfied that it is not the best plan. His own views are considerably changed on this point, therefore I will not oppose him here, but will fall back upon the plan proposed by the Government for an Upper House. It is suggested that eighteen members should be elected by the general constituency—acting not as one district, but divided into twelve districts. That is the proposition of Government, and the division into twelve was in order that the smaller districts might have a voice with the larger ones, in the Upper House. The great scheme contended for is that geographical interest should be represented as well as numbers. In the Government scheme, then, what we contend for is, that in place of one constituency there should be a division of the colony into twelve districts, not so much on account of their population as on account of their geographical extent. There is one more feature in which the hon. member for the Burra differs with the Government. The Government has not provided for a dissolution of the Council; they had endeavored so to combine the principle of the Constitution as to give effect to the will of the Upper House, but it was not considered that any power of dissolution should be allowed. It is thought that its members should be independent both of the Governor and the responsible ministry. (Hear, hear.) Otherwise the Lower House

might at any time, when a difference existed, dissolve the Upper House. I do not fear, myself, that there is likely to be such a thing as a deadlock. I believe that men, even as Legislative Councillors, are reasonable beings—(laughter)—and I feel quite sure that they would never allow a conflict of opinion to be carried to such an extent that nothing but revolution could ensue. But in an extreme case, the people themselves, I think, would soon bring about an adjustment of the difference by a such a demonstration of opinion, that the Legislature would have to agree. But we guard against all such accidents, by renewing every four years one-third the members of the Upper House. The members of both Houses will be returned by the same people, consequently their views will agree and no difference may be expected. At the end of four years, then, one-third of the Upper House will retire, and an infusion of new blood will, consequently, take place. These new members will take into the Council the views of the people out of doors, and by uniting with one or other of the parties in the House, will give a preponderating weight in favor of the popular will. That infusion once every four years will be enough then, it is supposed, to prevent a deadlock, and to carry on the Government of the colony without a dissolution, which would greatly tend to destroy the public confidence in the Upper House. I now come to a subject not introduced in the Government Bill—the Ballot. But although this, not provided for in

the Bill, should be decided by the House to be a wise and proper principle, an improvement upon the present system of election, by tending to diminish expense and rioting, then the Government are open to conviction, and will not have considered the Bill damaged by the introduction of that principle. Now, Sir, I have been through all the principles contained in the amendment of the hon. member for the Burra, as I was obliged to do, seeing the manner in which it was brought forward, and I have thus gone further than I otherwise might have done. I now return to the question with which I started—that the Bill be read a second time—and I would impress upon the minds of hon. members, that in assenting to this motion they do nothing but agree to the preamble and in no way preclude the power of the Council to amend or add to its provisions. (Hear, hear.) I do hope, then, that the hon. member for the Burra will cordially join with the Government in supporting this Bill, in which all the principles, except two, are identical with his own. (Hear, hear.) I cannot but dwell upon this point—with the exception of Universal Suffrage and the election of the Upper House by one constituency—that is, the second and fourth of his propositions—I see no difference whatever between the Government scheme and his own. I think it hardly fair, then, that he should have attacked the Government Bill as he has done, when, out of ten principles which it contained, two only were opposed to his own. He

must see that, in committee, all those principles may be discussed and re-discussed—that every hon. member will have an opportunity of speaking almost as many times as he pleases, and of arguing fully in support of the principles which he thinks best. The hon. gentleman concluded by moving the second reading of the Bill.

The Colonial Secretary would, in reply, make one or two remarks on the point argued in debate. He had taken no notes, but would say one or two things in reply. The hon. member for Light had said that the Government had placed the movers of this amendment in a false position, and as this had been taken up and made a matter of conversation out of doors he (the Colonial Secretary) would say that the hon. member was not the person who ought to have called attention to the grievance, if any existed. The hon. members for West Adelaide and the Burra were the members who were most affected in this matter; if there was ground of complaint, if those hon. members had been placed in a false position, they should have said so. They had not complained, and he could not see what reason the hon. member for Light had for this warm defence of them. It would be a very strange doctrine to lay down, to say that when a conversation had been held, such as the one referred to, neither party is to be allowed to reconsider the subject, whatever change of circumstance may take place. It would be absurd, and he was sure they

would not themselves have felt bound by any communication they had made to the Government, if a change of circumstances had occurred to lead to different consequences. He (the Colonial Secretary) had taken the first opportunity, at one o'clock in the day, to tell the hon. member for the Burra that the matter was to be reconsidered, and he must consider what course he would himself adopt. But the truth was, the hon. member for the Burra had placed himself in this false position. His notice of motion had been before the House ever since the 7th of this month, twelve clear days, during the whole of which time he said nothing whatever on the subject to the Government. Why did he not call a meeting earlier, and give the Government time, so that they might have full opportunity to consider what was the best course to adopt. Then the hon. member would have had no reason to complain of a false position, and some understanding would, no doubt, have been arrived at. He now came to the remarks of the hon. member for West Adelaide. He had dwelt considerably upon a point upon which I must join issue with him. He has sought to maintain, with all the power of his eloquence, that the Government has not met the wishes of the people in the framing of this Bill. He has maintained, Sir, that they have been compelled to reject a measure containing so many features of the Government scheme, and had stated that the wishes of the colony have not been treated with the respect they deserved.

But, Sir, it amounts to this—the Bill brought in by the Government is far too liberal to please those hon. members. (Oh, oh ; hear, hear.) The Government has left nothing for those hon. members to do. That, Sir, is the secret of the course adopted by the hon. member for the Burra. But did the hon. mover of those resolutions mean to say that in all the matters he had brought forward the country had spoken out. Take the question of the Upper House, for instance ; that was a point on which the hon. member principally attacked the Bill. But in what manner could he say the Government had neglected the voice of the people in that matter ; was there anything by which the Government could be guided on that point ? Nothing. He (the speaker) had looked through the papers, and did not believe that out of all the members returned six of them had explained themselves to their constituencies on this subject, in the manner of which he had spoken. On points of that nature the Government were left to their own judgment, and whether they had exercised that judgment in accordance with the wishes of the people would have to be decided by the Council, and in appealing to the Council on this point, at all events, he felt confident that they should carry the question triumphantly. Sir, it is quite evident that on the whole of these points the Government scheme is too much in accordance with the sentiments of the people to please those who wish to set themselves up at the leaders of the people.

(Hear, hear.) It has now come out that there are only two points brought forward by the hon. member for the Burra, which are not disposed of in the Government Bill, and which are not entirely in keeping with the wishes of the country. The hon. member for West Adelaide, in his speech of yesterday, in order to show his claims to be considered a leader of the people, seems to have conjured up some horrible phantom of his own—to have invested the Government measure with the attributes of everything tyrannical and oppressive—a measure, to use his own words, which sought to forge “chains and manacles” for the people of the colony. Now, he would like the hon. member to point out in what way it was sought to forge “chains and manacles” in this Bill. Of this he was assured.

Mr. Forster, if not out order, would beg to state that he was not reported to have said any such words as those now attributed to him.

The Colonial Secretary was glad the hon. member had not imputed such wrong doings to the Government. But if this Bill did forge “chains and manacles” for the people it was the people’s own fault, they will have forged them for themselves. Their own wishes had been fully considered, and those wishes would, no doubt, be found reflected in the decisions of the Council. He would once more reiterate a remark he had already frequently made with regard to the Bill—that was in agreeing to the second reading of the Bill

the Council was pledged to nothing whatever but the preamble, and all its principles might be fully discussed in committee. The Government would stand by the Bill, and two of the principles brought forward by the hon. member for the Burra, especially, they would feel bound to resist—that was the extension of the suffrage and the Constitution of the Upper House by the votes of one large constituency. Those were points they would not fail to object to, but he would not go into details now ; there was one more point only to which he would refer. It had been largely dwelt upon that they had not carried out the views of the country on the subject of responsible government. He could not agree with this, and he would simply remark that he knew His Excellency was sincerely desirous of acting in accordance with the feeling out of doors in this respect, and he would assist the Council to the utmost in their efforts to obtain so desirable an object. The hon. gentleman concluded by moving the second reading of the Bill.

The Bill was then read a second time, and Tuesday next was fixed upon to go into committee on the measure.

The proceedings in Committee of the whole House represented the policy of the House ; but the elected members were not of one accord. There was a Conservative minority amongst them who, relying upon the Governor's expressed views and support out of doors,*

* Illustrated by the Governor's memorandum sent to Capt. Hart.

introduced many changes into the final programme. The Radical, or rather Liberal members, carried several useful additions to the Bill, which rendered Responsible Government more secure. They carried the principle of universal suffrage and vote by ballot, as regarded the suffrage for the Lower House. They provided fully, as they thought, for the power of the purse in that House. They excluded the judges and ministers of religion from seats in either House, and in exchange for these results permitted the Upper House to become a fixture in the land, intrenching it against the power of the Governor by protecting it against a dissolution. They made the Upper House, too, the representative of capital by limiting the electors for that House to men holding a property qualification, and they permitted the power of the towns to rule all elections to that House by making the whole colony into one electoral district, within which the votes of a property suffrage returned the whole eighteen members as one body. The result showed itself in later years in this—that the upper House never opposed themselves to any expenditure that tended to enhance the value of property by road communications, bridges, railways, telegraphs, post-offices, and land regulations, for the sale and leasing of public lands. But they were careful to protect property whenever any taxation Bill was proposed, and whilst profiting largely by the value of the unearned increment—to use a term lately invented by political

economists — they held their citadel to the last extremity against taxation of property. It was impossible that indirect taxation through the Customs could continue to meet the interest and repayment of loans, without which no great public undertakings could have been carried out, even assisted by the land fund, which would necessarily diminish with the sale and occupation of the country suitable for agriculture and pasturage. In after times the crisis came, and a reform of the Upper House was effected on two points. The separation of the colony into electoral divisions for the Upper House was enacted; and to remedy, if possible, the danger of a future dead-lock the Upper House was rendered partially liable to dissolution under certain conditions. Sir Richard MacDonnell would, perhaps, have exultingly pleaded justification for his one-chamber policy if he had lived to witness these results of the Legislation of 1856. But I have travelled away from the proceedings of the Legislative Council of 1855, and the policy of Sir Richard MacDonnell. He was sometimes displeased to find that the measures and policy of his administration were commented on by the Press, as *his* policy, and not that of the Government, whose advice he received, but whose consent was not always sought by him; and this was even illustrated in the Constitution Bill, which he directed to be laid before the Legislative Council in 1855. In the 28th clause a very insufficient adjunct to Responsible Government was omitted when

it provided that the appointment of public officers under the Government of the province, hereafter to become vacant, or be created, should be vested in the Governor *with the advice of the Executive Council*. The consent of the Executive Council was not felt to be an important principle, *except by those who had acted in the capacity of Executive Councillors in a Crown colony*.

The year 1855 closed, the most important business having been the appointment of the Estimates Committee, as it was called, obtained on the motion of Mr. John Baker, "to take into consideration the Estimates, with power to call for papers, persons, and reports." It was elected on November 13th, and was ordered to report from time to time. The members appointed by the usual mode of election consisted of the Colonial Secretary (Mr. B. T. Finmiss), Mr. Foster, Mr. Younghusband, Mr. Kingston, Mr. Reynolds, Mr. Dutton, and Mr. John Baker (mover). The Constitution Bill with its various amendments moved on amid much debating, until it was finally settled in the form in which it became law on October 24th, 1856. The Advocate-General (Mr. R. D. Hanson) shaped the various amendments and proposals of the House in such a form as to give them full legal effect, especially as to every clause intended to give full effect to Responsible Government, in which he and the Colonial Secretary were of one accord. The Governor took the liveliest interest in the proceedings of the Estimates Committee

as well as in all the discussions on the Constitution Bill, whilst before the House. Thus on November 16th, three days after the appointment of the Estimates Committee, he informed me in a note:—

“1. I think it would be convenient that I should see all returns intended to be laid before the Legislature previous to their transmission. It is possible that in some cases there may exist in the Governor’s Office information which would be desirable to add to that in the Colonial Secretary’s Office and form some of the documents about to be laid on the table to-day, I see there are several misprints. 2. I should wish, with a view to making the information on every subject connected with this Government as full and as explicit as possible, to be consulted as to the form of returns which it may be desirable to lay before the Legislature, when of an unusual character as in the case of the returns of the services required from the Government officers employed by the various departments. 3. It is necessary that I should be, from day to day, made aware of the progress made by the Select Committee on the estimates, as I consider their deliberations must involve matter of primary importance to the colony and Government. It is, therefore, desirable that I should see you every day, either before or after the sitting of the Legislature. When not in my office here I am generally to be found at the Government Offices. (Signed) R. G. M.D.”

The Estimates Committee had Mr. Finmiss under close examination at this time,

and also the heads of the chief departments, with a view to endeavor to reduce the strength of the number of subordinates, and otherwise ascertain the nature of their duties in furtherance of economy in the public expenditure as regarded the establishments of the Civil Service. It was difficult, and at times impossible, to comply with these commands of the Governor, which furnished him with the occasion to communicate his displeasure to Mr. R. R. Torrens, the Treasurer, who informed the Colonial Secretary, on his way to his office after a sitting in the House, that his official position was in considerable peril as he had gathered from the Governor in conversation. The Colonial Secretary informed Mr. Torrens, in reply, that his health was already giving way under overwork, and that his non-attendance on the Governor was due to that and not from any inattention to His Excellency's commands. The next day after the successful carrying of the second reading of the Constitution Bill, the Colonial Secretary received another communication from Sir Richard MacDonnell, as follows:—"As I did not perceive in the reports of yesterday's debates* (at least as given in the *Times* of to-day) that there had been any distinct announcement of the intention of Government to refuse charge of any Bill embodying Universal Suffrage or one electoral district for the Upper House. As I think this determination, if it

* This note is without date, but it must have been written on November 21st, 1855, the day after the debate on the second reading.

is to be made use of, should be known as early as possible. I think it right to tell you that I have sent the memorandum to Captain Hart with a request that he would use it for the information of gentlemen inclined to support the Government views, and also, more especially, to give clear information as to the reasons for supporting the Government electoral divisions for the Upper House. Faithfully yours (signed), R. G. M'D." Amongst my papers I find this note with the following minute on it, written by the Colonial Secretary on its receipt. "My impression of any determination at this date is as follows:—That I was to proceed with the second reading at all risks, without holding over the members any threat of the withdrawal of the Bill. I know nothing of the memorandum alluded to beyond hearing it read in the presence of the Executive Council, after which the Governor stated that it contained his views put forward only for discussion. I objected distinctly to come to any decision as to the course to be adopted contingent upon the day's debate. Therefore I was not aware of any determination, except in the Governor's mind, to refuse charge of any Bill whatever. At six o'clock the previous evening the Governor had said he intended to send his memorandum, with additions for the expression thereon of the opinions of the Executive Council. (Signed) B. T. F."

A memorandum stating the course intended to be taken by the Government had evidently been for-

warded to Mr. John Hart by the Governor previous to November 22nd, and as it would seem before the second reading of the Bill. There had been a meeting of the Executive Council on the 19th, the day before the second reading was to be moved, at which the Governor read a memorandum of his own relative to the views he held and wished to impress upon the members of the Government on the occasion of this meeting, I find the following minute, written by the Colonial Secretary:—"Copy of remarks appended by Colonial Secretary to minutes of Executive Council of November 19th, 1855. With respect to the memorandum herein alluded to, as annexed, it does not accompany these papers,* and having heard it read when there was no time for discussion, as the business of the Executive was more immediately and necessarily confined to the consideration of the course to be taken on Mr. Kingston's request to be permitted by the Government to discuss in the Legislative Council the resolutions, of which he had given notice before the motion for the third reading of the Government Bill was brought on, it had better be referred to the members of the Executive Council for the expression of their opinion thereon, if the Governor desires to hear their opinion on that question. (Signed) B. T. FINNISS, Colonial Secretary, November 24th, 1855."

* The papers on which the Governor wished the advice of the Executive Council appear to have been sent round to members by the clerk.

The memorandum of the Governor had been hastily read in Executive Council on the 19th, but no opinion had been taken on the question it involved, whatever that may have been. But probabilities seem to point to the view that it was intended as an instruction to the Government, and that this was the memorandum alluded to in his note of November 21st, 1855, to the Colonial Secretary, as having been *sent to Captain Hart with a request that he would use it for the information of gentlemen inclined to support the Government views.* I have quoted the notice of motion given by Mr. Kingston as it appeared on the notice paper of the Legislative Council, on November 20th, 1855 (Tuesday), and in the margin of the printed copy in my possession there appear to be notes under the Colonial Secretary's own hand of the course which he was to follow in the discussion, as agreed to by the Government. These notes were as follows:—"Mr. Kingston's first proposition to be supported; the second to be met by a negative; the third by moving the previous question; the fourth by a negative; the fifth to be supported; the sixth to be supported; the seventh to be supported; the eighth to be supported; the ninth to be met by the previous question; the tenth to be supported." In the first printed notice supplied to the Government the first proposition of Mr. Kingston was much more fully stated. It was in these terms:—1. *Responsible Government: the Executive Council or Ministry to consist of six persons*

selected from the members of the Legislature or Parliament (not less than four of whom shall have seats in the Lower House), and who shall continue to hold their seats after having accepted office in the Executive Council or Ministry until the next general election, and who may be removed from office by a vote of the Legislature. All money Bills to be originated by the Government in the Lower House. Before the discussion on the motion for the second reading, the Government were thus made aware of the views of the Liberal party on the subject of Responsible Government, and they knew from experience that these views would be engrafted in this Bill in committee in the face of all opposition. The Bill was moved into committee of the whole House on November 27th, and it was then that the real conflict of parties began. Some members of the House had the "ear of the Governor," as the following memorandum will show, and as the Governor's note of the 21st to his Colonial Secretary will confirm. I find amongst my papers the following memorandum, in the handwriting of Mr. G. de la P. Beresford:—"Proposed by Sir R. G. MacDonnell. Hanson.—That the Government declines having any official responsibility in connexion with any measure whatever which affirms the principle of throwing the colony into one electoral district for the Upper House, or so dividing it as to deprive the remote country constituencies of the protection which nothing but adequate representation

in the Upper House would afford them. The Government also declines having any official responsibility in connection with a measure introducing universal suffrage. (Signed) RICHARD GRAVES MACDONNELL, November 26th, 1855. True copy. (Signed) GEORGE D. P. BERESFORD, Private Secretary."

In a minute written by the Colonial Secretary at the time, on the face of this memorandum, I find noted as follows:—" *It is no use making this statement to rally the Government members, as they have declared against us. Baker-Angus—There is, in fact, a coalition of most of the elected members; the only exceptions are Hughes and Watts.*" At this period of his rule Sir Richard MacDonnell had not abandoned the rôle of the Governor of a Crown Colony. Instead of seeking to ascertain the wishes of the colonists as to the form to be given to the Constitution, which seems to have been the object of the Secretary of State, he endeavored to shape public opinion in the constituencies into conformity with his own views, and when his scheme of one Chamber was written down by the press he endeavored to guide the community to accept the system of Tasmania, which, if carried into effect by the Legislative Council in the shape in which he caused it to be placed before the Council, would have left us without those safeguards which are necessary to self-government and have left him supreme in the Executive Council. It will be seen by referring to the speech of the Colonial

Secretary on the 20th, when he moved the second reading of the Constitution Bill, that he endeavored to give effect to the instructions of the Governor in the memorandum addressed to Mr. Hanson, and also to the views of the Government as noted by him in the margin of the notice paper of November 20th. I have no means of ascertaining from any papers in my possession what were the precise terms of the Governor's memorandum which he sent to Captain Hart to be communicated to other members inclined to support the Government. It could not be the memorandum of the 26th, certified by Mr. Beresford, but may have been the memorandum which the Governor read in the Executive Council on the 19th. However this may be it was clear that the Governor was in communication with members of the Legislative Council as to the instructions which he had given to the Executive Government on the questions involved in Mr. Kingston's notices of motions, and that he was using his influence out of the House to forward his own Conservative views—a course which could not fail to embarrass his Government in the House, whose aim was that of conciliation, knowing as they did that a majority of the elected members were determined to engraft upon the Government Bill all the amendments necessary to establish Responsible Government in the complete form in which they understood it, and that on this vital question the electors throughout the colony were ready to support them. The Governor

knew, also, the liberal views of the two, *at least*, of his Executive Councillors communicated in frequent conversations and papers. They were giving him, as in duty bound, such assistance as he could require without doing violence to their convictions, and this, too, was known beyond the precincts of the Council Chamber. The Governor's opinions were well known to all, and the "*stand*" he was making, to use a term of his own (against what?), was highly unfavorable to his popularity. This accounts for the jealousy with which the Legislative Council tied up the power of the Governor, and for the relentless opposition which his Government encountered all through the session of 1855-6. The Conservatives, to use a term not previously known in South Australia, shared with him their fears of a dominant democracy, but they thought they could guide or rule democracy more easily than they could control a despotic Governor with Downing-street in reserve. There was a vast future before the colony with an increasing revenue, and the Conservatives, as well as the liberals, were no longer satisfied to leave that future to be developed by irresponsible governors. Hence, when the issue was: should the colonists at large be free to govern themselves or continue to recognise a power outside the colony which they were lawfully constrained to obey, they preferred the possibility of a despotism within, which they could subvert, to a despotism without which was irresistible. However, the

Constitution Bill passed through a severe ordeal, and was finally carried through the last stage; its third reading on January 2nd, 1856, and was reserved on January 4th for Her Majesty's assent. The Legislative Council had now leisure to attend to the Estimates, which, as I have stated, had been referred to a select committee. Mr. John Baker, Chairman of the Select Committee, brought up their first report, together with the second report, on January 22nd, 1856. On February 5th the third report was presented to the Council, and on March 18th the fourth report appeared. On May 1st Mr. Baker produced the fifth and final report of the special committee, and moved, pursuant to notice—"That the reports of the select committee, together with the evidence, be transmitted to His Excellency the Governor, accompanied by an address requesting His Excellency will be pleased to lay before the Legislative Council revised estimates in the place of those referred to the Select Committee." This motion was put, and passed the House.

The year 1855 had passed away; and the financial measures of the Government during the year, involving Amended and Supplementary Estimates of the Ordinary Revenue and Expenditure, and of the Land Fund Revenue and Expenditure, had not been formally affirmed by the passing of an Appropriation Act. Nor had the Estimates providing for the expenditure of the year 1856 been even considered. The Government, therefore, was carried on by votes of credit. This

apparent stoppage of the supplies was not intended to be regarded as such ; it was merely owing to the mass of work which the special committee had undertaken, and which extended not only to the examination of the Public Accounts, but also to an enquiry into the financial condition of the colony generally, for which latter purpose the managers of the banks were summoned to appear and were examined. To some questions they objected to reply, as the evidence sought was of too inquisitorial a nature. It may easily be inferred that the Government officers were dealt with in a similar spirit. But the committee knew that the House had passed the Constitution Bill in which Responsible Government was fully secured ; they felt that the Colonial Government was in a transition state, and would soon pass into other hands ; and they moreover knew their own power. In the first report they explained that, owing to the delay they experienced in procuring the necessary documents upon which to base their report, and from the further delay and inconvenience occasioned by the loss of time between taking evidence and receiving revised printed copies, the committee were necessarily compelled to put off their first report till a period when it would have been too late to dispose of the Supplementary Estimates before the Christmas recess. This bears out the remark I made, that the delay in passing the usual Appropriation Acts was not due to any intention of stopping the supplies. One maxim of good govern-

ment I shall quote as applicable to all times, viz. :—
“ *That public expenditure should be kept within the sum voted by the Legislature, and that Supplementary Estimates are justifiable only in cases of urgent and unlooked-for emergencies which, from the nature of circumstances, could not have been foreseen or provided for.*” The first report had reference solely to the Supplementary Estimates of 1855, which the committee rigidly scrutinised. In coming to a conclusion with respect to these Estimates, the committee prepared a revised estimate of their own, rendered necessary by the fact that the Estimates of Ways and Means in the original Estimate was not realised. The reductions of the committee in the expenditure were effected by operating on the unexpended votes of 1854 and 1855, involving amongst other items the sum of £8,120 16s. saving on the North Arm-road; premiums to overland steamers not then claimable, £12,000; and the military vote of £12,000, no longer required since the Russian war, which had given occasion for it, had been concluded. Yet still the committee stated a debit balance of £8,081 10s. in their own revised Estimates. In the examination of the Estimates of 1855 the committee had the advantage of dealing with ascertained facts rather than with mere estimates by delaying their first report till January 22nd, or nearly a month after the publication of the official returns of actual receipt and expenditure. It was pointed out by the Colonial Secretary, whose duty it had been to

prepare the original Estimates, in his evidence on which the committee based their third report of later date, that further reductions might be made when certain claims against the Government were paid. And the committee found and stated in their third report that, now having the later experience of the accounts up to February 5th, 1856, the debit balance with which they had assumed the year 1856 would commence had become changed into a credit balance brought over from the year 1855 of £16,752 10s., in place of a deficiency of £8,081 10s. The third report also contained a recommendation which bore the character of a censure of the Governor in respect of unauthorised expenditure at his instance. The committee report:—“*Without expressing any conclusive opinion upon the evidence of Captain Douglas (naval officer and harbour-master) regarding the usefulness of the ‘Blanche’ the necessity for building or economy of keeping her, your committee recommend the disallowance of the vote, as an expression of the feeling of your Honorable House upon the question of unauthorised expenditure.*” The committee based this paragraph of their report on the evidence of Captain Douglas, the harbor master, who had informed the committee that the *Blanche* had been built in August, 1855, by the order of the Governor, given through him, at an estimated cost of about £500.* This was an illustration of the mode in

* See minutes of Evidence, p. 127 of Reports, questions 2750, 2751, 2752, 2753, 2754.

which the Legislative Council had intended to work the 33rd clause of the Constitution Act, which provides that "*No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money; nor shall any warrant for the payment of money, or any appointment to, or dismissal from office, be valid, except as herein provided, unless such order, warrant, appointment, or dismissal shall be signed by the Governor, and countersigned by the Chief Secretary.*" This recommendation in the third report of the special committee was not acted upon, as I find that in the Revised Estimates of 1856, which passed the Legislative Council, and was affirmed in the Appropriation Act, the vote of £500 for the purchase of tender for *Yatala* is included. In their final report the committee recommended the appointment of a paid commission, to consist of three competent persons to examine into and report upon the manner in which the public accounts of the province are kept, with a view to suggest any alteration in the system by which greater simplicity and more perfect public information may be combined, with a complete check and audit. In the foregoing remarks I have consulted the original reports, as printed in 1856, and in making this the conclusion of the present chapter, I cannot omit to point out "the feeling" which evidently governed the proceedings of the select committee of the Legislative Council, appointed on November 13th, 1855; a feeling indicative of mistrust

of the then Government, and of a disposition to use all the power which the elected members possessed to limit the prerogative of the Governor, and to decry the system under which the Government of the colony had been conducted. The result in later times did not serve to bear out the opinions of the Estimates committee, when the same men became leaders of the Parliament or members of ministries. That the colony has made large strides in the knowledge of the art of government, and in material progress, I intend to show in a future chapter, by comparing the statistical records of the colony in 1857, the year of the inauguration of Responsible Government, with those of 1883. The result of the work of the Estimates committee was the passing of the Estimates and Appropriation Acts for 1855 and 1856, after lengthy discussions, and the appointment on May 15th, 1856, in compliance with an address of the Legislative Council of a commission "to examine into and report upon the manner in which the public accounts of the colony are kept." The gentlemen appointed by the Governor to act on this commission were Mr. Samuel Tomkinson, Mr. W. H. Maturin, Assistant Commissary-General, and Mr. Henry Ayers, now Sir Henry Ayers, K.C.M.G., in acknowledgement by the home Government of his services in connection with the overland telegraph to Europe through Port Darwin, whilst holding the office of Chief Secretary of the province. This commission concluded their report

on October 24th, 1856, on the very day of the Proclamation of the Constitution Act, which had then been assented to by Her Majesty. After a searching enquiry the Commissioners, in concluding their report, add, that they have to express their thanks to the officers of the various establishments from whom they have had every assistance in prosecuting their enquiries, especially to the Auditor-General (Captain W. L. O'Halloran), without whose willing aid they could not have made themselves fully acquainted with the numerous subjects requiring attention, and to whom, as well as Major Warburton and Mr. Thrupp, late of the Audit Office, they were indebted for many valuable suggestions.



CHAPTER IX.

Continuation of the rule of Sir Richard Graves MacDonnell. C.B., from the framing of the New Constitution until the close of its first session—The Governor makes strenuous efforts to maintain his prerogatives as Governor of a Crown Colony—The old Legislative Council holds its final session—He passes Acts to make provision for a monthly mail communication with England ; for the water supply and drainage of the City—Pushes on railways—Appoints the first Ministry, consisting of the former official members—Endeavors to promote his own policy—His correspondence with the Chief Secretary—His popular manner gains him friends—He differs from his Ministers on the Murray Customs question and on the postal question—Censures his responsible advisers in despatches ; they protest—The Chief Secretary introduces a Bill into Parliament to give effect to the new contract with the E. & A. Mail Company for twelve months—Bill shelved in the Assembly—Bill for Postal Service ultimately passed under a new Administration, by which South Australia became a party to the contract from November 15th, 1857, for one year, pending negotiations.

WHEN a chapter is brought to a close it by no means follows that the subject has been exhausted. The writer is content to have arrived at a station on the line where he may rest and arrange his material for a fresh start, and, perchance, take a retrospective glance at his remarks and conclusions. In concluding the last chapter I did so, not from any idea that I might begin a new phase in the narrative of the political career of Sir Richard MacDonnell, but because the subject began to lose interest from its great length ; and I found it was in vain to expect to bring the career of Sir Richard MacDonnell as the

Governor of a Crown Colony to an immediate close when so much additional matter remained to be recorded. The proceedings of the Legislative Council had terminated, as regarded the new Constitution, early in the month of January; and a struggle between the Governor and the House had commenced, the result of which it was easy to foresee. The Governor was pitted against the Estimates Committee, to use the language of the daily press, although that expression was so displeasing to him that he directed the Colonial Secretary to correct the impression, by assuring the House that the members of the Government had their full share of responsibility along with the Governor. It was a usual course of action with Sir Richard, to claim all power for himself with the credit of success, and to call in the aid of his official advisers in case of failure, though their consent to his measures was not deemed needful, or heeded, in the impetuosity of his energetic impulses. The powers of Government were in a transition state; and had the Governor been a man of a different character he would have acted under that persuasion, and have taken the elective members into his confidence openly and legitimately, and thus have softened the asperity of the conflict in which he engaged by a conciliatory toning down of his existing prerogative rights. His continual intervention in matters before the Legislative Council, as though he were still its President, rendered the position of his first ministry difficult and precarious, since the

penumbra, if not the dark shadow, of nomineeism attached itself more or less to their course of action, when the elections of the Parliament being concluded they were fellow sharers with other members in all the consequences of Responsible Government. This will be apparent when I reach that stage in the history of Responsible Government at which all real power had passed from the Crown to the people, and it became incumbent on the Governor to recognise the fact and loyally assume the position of reigning instead of ruling.

The Colonial Ministry were somewhat in the position of the Imperial Ministry succeeding others of a different party, whose policy they disapproved and which it becomes their duty to shape in accordance with their views of public opinion with as little inconvenience and injury to public interests as possible. Sir Richard MacDonnell was bent upon stamping his image upon every measure which marked his policy during his career of power; and the success of the first Ministry was much obstructed by having to shape their administrative acts so as to modify his previous action in matters which the public out of doors, as well as their representatives in the Houses of Parliament, were not prepared to affirm. Besides this difficulty Sir Richard added another. He was always ready and energetic in his efforts to direct the policy of his responsible officials in accordance with his own previously expressed views, both by his correspondence

with the Secretary of State and with the other Australian Governments, which it required the utmost vigilance of his Ministry to modify and regulate. Behind the scenes there was still the Governor of a Crown Colony, and there was thus a continual struggle between him and his Constitutional Executive Council, which the public were kept in ignorance of as they are now with respect to differences of opinion in Cabinet meetings. The records of the Executive Council and the despatch books of the Governor must be ransacked to show all that passed behind the scenes in 1856 and 1857. Various maxims of Constitutional Government would be brought to light for the information and instruction of South Australian statesmen, some of which I have endeavored to make public in this history through various written documents and notes which, in the course of my political activity, I found it necessary to collect, although afforded no opportunity of making use of them. I use them now in the interests of Constitutional Government at a time when the incidents to which they relate can have no effect on party politics or upon the susceptibilities of the individuals who had a share in administering the political affairs of the Province. A generation has passed away since those papers were written, and with it all recollection of the asperities and demands of party warfare. History would be but a bare record of public occurrences, such as may be read in any useful almanac or book

of annals, unless some writers undertook to lift the curtain and show the characters and acts of public men as they would appear if divested of their stage costume. A writer of history, especially too, must be expected to draw conclusions from the mass of material before him, under the safeguard always that his materials are genuine and reliable. In all that I am writing I have the authority of written documents or printed public records. And in order that such authorities may not be lost in the future I have, perhaps it may be said, encumbered the text of my narrative with copies or quotations verifiable, if necessary, for which purpose I propose to preserve the original documents themselves as far as they consist of manuscripts.

The Legislative Council, the names of whose members I have given in a preceding chapter, had exercised functions similar to those which devolved on the Parliament which effected the Revolution of 1688 in England. They had, using the powers placed within their reach by an Act of the Imperial Parliament, passed in the session held in the thirteenth and fourteenth years of the reign of Queen Victoria, limited the prerogatives of the Governor of a Crown Colony, and established a Constitution in which the rights of the people through their representatives and Responsible Government were thenceforward to be paramount. The will of one man representing the Imperial Crown was to be subservient to the will of the people as a

whole. And in this exercise of legislative power the people of South Australia were assured and protected by the assent of Her Majesty to their Bill of January 2nd, 1856, which was proclaimed by Sir Richard MacDonnell on the very day of its receipt in the province—October 24th, 1856. The Legislative Council, or, as it may be aptly called, the Constituent Assembly, continued in session from November 1st, 1855, to June 19th, 1856, having the day previous to the prorogation passed the Appropriation Act for that year. The same Legislative Council met again on November 11th, in a second and final session, to prepare its successor to enter upon its functions, having accomplished its own dissolution by enacting, in the 42nd clause of the Constitution Act, that its powers and existence were to continue and exist only until the issue of the first writs for the election of members of the Parliament which had now been officially proclaimed to take its place. During a short session, extending only to December 11th, this Council passed eight Bills, one of them making provision for the financial administration of the Government during the ensuing year, 1857, and another providing for the election of members to serve in the Parliament of South Australia. Sir Richard MacDonnell had in the meantime not been inattentive to the social and material progress of the colony. He presented to the Legislature and obtained their sanction, on March 5th, 1856, to “An Act to regulate the Collection and Distribution of Duties upon goods

passed into the neighbouring colonies by way of the River Murray." He passed an Act to make provision for a monthly mail communication with Great Britain. He established and incorporated the South Australian Institute, a measure the great utility of which must be acknowledged as an instalment of a measure of education for the benefit of the adult classes. He introduced and passed an Act for the water supply and drainage of the City of Adelaide. He passed what is known as the Limited Liability Act, providing for the registration of joint stock companies, and for limiting the liability of the members. He provided for the amendment of the Main Roads Act, and for the extension of the railway system to Gawler Town; works which, although sanctioned during the rule of his predecessor, had not proceeded to completion, but were now strenuously pushed forward. As a Governor, too, he had been active in making himself acquainted with the geography and resources of the province, having travelled during three months in one year over the Northern and South-Eastern districts, and made a voyage up the River Murray as far as Albury, in New South Wales. His policy in regard to his prerogative as Governor, I shall proceed to give an account of, taking up my position from October, 1856, when his powers became limited by the operation of Responsible Government. As soon as the despatch arrived in the colony conveying the assent of Her Majesty to the Constitution Act passed on January 2nd, 1856, Sir

Richard gave it publicity in a proclamation which brought the Act into immediate operation. He then proceeded forthwith to appoint his Ministry. The first step was to summon Mr. Finnis and question him on the conditions which would enable him (the Governor) to act with him. The chief condition which he was desirous of imposing upon his new advisers was with reference to a railway or tramway to connect the Port of Adelaide with the River Murray at a new station named Blanchetown. His predilections were strongly in favor of such a measure; and the tramway system was most in favor with him, as it was with the Conservative party in the colony, headed by Mr. John Baker and supported by Mr. Thomas Reynolds, subsequently known as "the Honorable" Thomas Reynolds, which personal title for life was then about to be introduced by Her Majesty in recognition of the services of those who might hold a ministerial office for three or more years. The Imperial Order of St. Michael and St. George had not then been instituted.

Sir Richard MacDonnell pressed Mr. Finnis very much to undertake his favorite railway connection with the River Murray, when Mr. Finnis assured him that he could never commit himself to a system of tramways for main trunk lines of communication, whilst he was sure from his knowledge of the strength of parties in the Legislature that he would fail in any measure to extend our railway system, at that time, in the direction he indicated. His Excellency added that

he was about to offer Mr. Finnis the post of Chief Secretary, but his resolve would be contingent on his adopting that policy. To this Mr. Finnis replied that under no conditions could he undertake to surrender his judgment on that particular point. He then said: "Well, Mr. Finnis, I will appoint you as chief of the first Ministry, and I must associate you in that capacity with your old colleagues in the Executive Council, as only fair to them and as most judicious under all circumstances." To enter upon the new duties with entirely new men, untrained in departmental administration, Mr. Finnis felt would lead to much direct inconvenience. He therefore considered Sir Richard's proposal a reasonable one, and forthwith accepted the post of Chief Secretary in the first Responsible Ministry of South Australia. The Legislature still consisting of the old pattern Legislative Council was not then in session, having been prorogued on June 19th, and it did not meet again until November 11th of that year. The Parliament was incomplete as a legislative body until the return of the writs for the election of members to both Houses. The writs were issued on February 2nd, 1857, and on the returns being completed the first Parliament of South Australia was summoned to meet on April 22nd, 1857; a memorable event which, in the future, will no doubt be recorded as well as the day of the first proclamation of South Australia on December 28th, 1836. In six months, nearly, the functions of

the new Parliament were in abeyance, and the old Legislative Council sat for one month only in second and final session, being prorogued on December 11th and ceasing to exist on February 2nd, 1857, in virtue of a special clause in the Constitution Act. During the long interval before the meeting of Parliament the chief concern of the Government was to arrange the public business so as to apportion the control of the several Ministers over the departments in accordance with the intentions of the Legislature, who, in naming the designations of the responsible ministers, indicated their charge of special departments. This was a matter of simple arrangement. But it was not so easy to draw the line between the functions of the Ministry and the powers of the Governor. Sir Richard MacDonnell, as I have said, endeavored, during his unlimited authority in administration, to set his stamp upon all measures; and he strenuously maintained that the working of the policy thus initiated should not be disturbed. He was tenacious in the extreme on this point, and consequently many discussions arose between him and his Government which frequently took the form of written communications and papers submitted to the decision of the Executive Council. It should be stated here that the Executive Council, originally constituted under the royal instructions, consisted of three principal officers—the Colonial Secretary, the Advocate-General, and the Surveyor-General. A fourth member was added on November

19th, 1855, in the person of Mr. R. R. Torrens, who was sworn in as Treasurer. These were the four officers who were appointed members of the first Ministry on October 24th, 1856. To these were afterwards added Mr. Charles Bonney as Commissioner of Crown Lands, and Mr. Samuel (now Sir Samuel) Davenport as Commissioner of Public Works, who succeeded the Surveyor-General, Arthur H. Freeling, R.E., in that ministerial office. Captain Freeling, still Surveyor-General, and elected to the Upper House on March 9th, 1857, resigned his ministerial office of Commissioner of Public Works in favor of Mr. Davenport. There were thus five ministers, as required in the Constitution Act. Their names and titles were as follows:—Chief Secretary, Boyle Travers Finniss; Attorney-General, Richard Davies Hanson; Treasurer, Robert Richard Torrens; Commissioner of Lands and Immigration, Charles Bonney; Commissioner of Public Works, Samuel Davenport. The first Ministry looked on themselves especially as the assertors and maintainers of Parliamentary privileges, and as the guardians of the popular rights of self-government. In order to explain the relations between them and the Governor, whose confidence they were assumed to possess—since Sir Richard had the choice before him of many men of ability and influence, and the Constitution gave him full power to select and appoint his own ministry. I must revert to occurrences early in the year 1856, before the establishment of Responsible

Government, and while it was daily expected to become law, to give some indication of the course followed by Sir Richard MacDonnell in adjusting his relations with an Executive Council, whose consent as well as advice was necessary to complete all the important measures of Government. Thus in May, 1856, he sent me, as Colonial Secretary, two letters dated the 13th and 31st respectively, when self-government might be said to be pending. I have already quoted his letter of May 31st, and the reader should refer back to it, as bearing upon the Governor's views of his duty at such a time. The note of May 13th was in these words, viz :—

“My dear Sir—As possibly I may find myself unable to go to the offices to-day, I wish to draw your attention to the very annoying and injudicious articles in the *Times*, whereby I am placed personally in the absurd and unconstitutional position of being pitted against the Estimates Committee. Such articles as ‘The Governor and the Finance Committee,’ &c., &c., &c., if intended to be friendly are most inopportune, as exhibiting the Governor individually (when on the eve of Responsible Government) adopting a particular line of policy. In the whole of to-day's long articles there is not once mention made of the Government. It is always ‘the Governor.’ I can scarcely fancy this accidental or well intentioned. It is only justice to myself, and also to the gentlemen of the committee, several of whom I personally know and like, that you should as organ of the Government, turn your attention to clearing up this the first time you may address the House on the subjects of the Estimates. I believe none of us, while insisting firmly on our right to be heard, wished to do more than ensure fair play for both sides of the question, by giving to each equal publicity ; and if the memorandum be not signed by the *Ministry*, it is because the present Constitution in the Advocate-General's opinion renders it necessary that such an exposition of the general policy of the Government should be regarded as a minute of the Governor in Council. I really think the course adopted by the *Times* is calculated to injure the Government, and prejudice an impartial discussion of the question. Believe me to be, most truly yours, (Signed)

“ R. G. M'D.”

South Australia, when this was written, was yet a Crown colony, and Sir Richard was, perhaps, required to assume the entire responsibility for the acts of the Government, since they were really his acts. But on this occasion, because attacked in the Press, he seemed anxious to throw off this responsibility, though the general policy detailed in the memorandum alluded to emanated from the Governor. I have now a different phase of the question of Responsible Government to consider, viz., when the change had really taken place, and the Ministry claimed to direct the policy of the country, in virtue of the powers conferred on them. I have undertaken to write the history of Responsible Government, that hereafter it may be seen that in its commencement it was really a struggle between the Governor upholding his former prerogative rights and his Ministry, who had to contend with the influence which the Governor had exercised in his private intercourse with members of Parliament, with the prestige which still attached to his position out of doors, and his popular manners and social peculiarities, which made him a favorite with those who had no mission to mix in the warfare of politics and come into contact with his will.

Few men can resist the blandishments of rank and position when power is associated with them. And when power is separated from rank it takes a long time before the difference of position is seen and felt. The prestige of power remains with the former

possessor long after the reality has passed away; and it is those only who come into official contact with the person or institution suddenly divested of power that become affected by the change. The community at large are for a long time unconscious of it, and maintain the old attitude and reverence towards the individual. The fear of power and the expectation of benefits from its exercise long outlive the fact of its extinction or modification. In history we find, universally, that after a reign of tyranny and revolution the storm waves require a length of time to settle down. And it is so with any idea that has once laid hold of public opinion. Sir Richard MacDonnell derived considerable advantage from the operation of this principle in the public opinion of South Australia, and he used the shadow of power to keep up his influence in legislation when the substance had really departed. His constant assumption of prerogative met his Ministry at every point on every question; and the Conservative party, formed chiefly of wealthy men, were satisfied to play into his hands in the Legislative Council, as they had formally endeavored to support him in his stand against democracy.*

* See Mr. Torrens' speech in the House of Assembly on August 26th. On this occasion, during a debate in the House of Assembly on a motion of want of confidence against the Ministry of Mr. John Baker, Mr. Robert R. Torrens, the mover, read various extracts from the Chief Secretary's speeches on the privilege question. He observed that in those speeches were foreshadowed the policy of Mr. Baker's Ministry, and now that policy was attempted to be carried out, and it

This direct interference in every administrative and legislative action of the Ministry was a source of continual embarrassment to them, and had well-nigh wrested the power from the Assembly in the determined stand made by the Upper Chamber to render Responsible Government a nullity, by claiming the right to amend and alter money Bills; which, if not successfully resisted, would have enabled the Governor to coerce the Assembly by frequent dissolutions that would have left permanent power with the Upper House. Men of capital only can bear the cost of constant elections; and thus the constituencies would have been driven over to the ranks of capital in the Assembly, and the Upper House have increased its power in the direction of legislation. With a full share in the control and direction of taxation, and equal power in respect of public improvements, the material progress of the colony would not have reached its present stage for many years to come. There were two questions that occupied the attention of Sir Richard MacDonnell, and which, remaining unsettled when the first Ministry came into power engaged their

would be if the House allowed itself to be cajoled as the Ministry had been. If the members of the Ministry had been cajoled they were political renegades. He spoke with authority for what he said, that the ministers were not the only persons who had been cajoled by the plea of rushing to the support of His Excellency and of rallying around him. That cajolery had been practised on his honorable friend to the right (Mr. J. B. Hughes).—Parliamentary debates.

early attention. These were the Murray trade and the postal question with Great Britain. Sir Richard MacDonnell had offered to collect the duties on Murray borne goods destined for consumption beyond the South Australian border *on any scale determined on by the neighboring colonies*, and his correspondence in 1855 embraced that view. In order to carry out this arrangement, which, in the language of Mr. Childers, then high in office in Victoria, had been stated in written terms sufficiently strong to constitute a distinct pledge, with the Government of Victoria, Sir Richard directed a Bill to be laid before the Legislative Council to provide for the collection of duties on goods passing into the colonies of Victoria and New South Wales by way of the River Murray, according to *any tariffs* which those colonies respectively might from time to time *signify their wish to impose, leaving those Governments entirely unfettered as to the nature and amount of the duties which they might respectively authorise the South Australian Customs officers to collect*. This Bill failed in its object; since it was passed with the addition of a clause which entirely negatived Sir Richard MacDonnell's wishes and intentions. This clause provided for the collection and distribution of duties, *not according to any tariff which the neighbouring colonies might desire to enforce, but simply in accordance with the duties leviable under the South Australian tariff*. Mr. Childers, who at that time was responsible for the Customs depart-

ment of Victoria, in a memorandum addressed to his Government resented this action of the South Australian Legislature, which he characterised as a breach of faith. He maintained that Sir Richard MacDonnell had written in such terms in 1856 as to leave no doubt at the time in the mind of the Government of Victoria that a distinct pledge had been given to carry out the arrangement agreed to by His Excellency; and he further pointed out that when the Act of March 5th, 1856, was enclosed in a letter to the Government of Victoria, no express mention was made that the Act failed to confirm the principle for which Sir Richard had contended; and that under any circumstances the retraction of a pledge affecting arrangements already in operation should be expressly stated, and not left to be inferred by those to whom the pledge was given. The Act in existence before that of March 5th was found to open the door to smuggling by providing that the duties should be collected on the Murray in accordance with the South Australian tariff only, especially in the articles of spirits and tobacco, the duties on which were lower in the South Australian scale of duties in some important items than in those of Victoria and New South Wales. Hence *Melbourne firms* had supplied the districts up the Murray with goods rated according to *the duties leviable in South Australia*, to the great loss of the revenue of those colonies. The fact was, as stated by Mr. Childers, that no explanation was afforded by Sir Richard MacDonnell, that the Act

enclosed failed to give effect to his intention, and the despatch concluded simply with the expression of Sir Richard MacDonnell's "hope that the Victorian Government would consider the Bill as affording the necessary facilities for a final and satisfactory settlement, &c., &c." This Bill, upon which so much depended in its original form, had been shown to Mr. Childers by Mr. Torrens, under instructions from the Governor, and, if carried in that form, would have completely redeemed any pledge given or assumed by Sir Richard MacDonnell. But it was, unfortunately, negatived in that respect. In commenting on Mr. Childers' memorandum in March, 1857, in reference to this subject, Sir Richard remarks "that no pledge had been given further than that he meant to seek the sanction of the South Australian Legislature," for which he quoted from the despatch written by his direction to the Colonial Secretary of New South Wales, on December 5th, previously alluded to by Mr. Childers. This was the first question for resolution by the Ministry of Mr. Finnis. On February 25th, 1857, taking up the correspondence where Sir Richard MacDonnell had left it, the Chief Secretary placed fully before the Victorian Government the course which the Governor would be advised to pursue in reference to the Murray duties question. He also enclosed a memorandum prepared by the Treasurer, Mr. Torrens, containing a statement of this policy, and declared that, after careful consideration, the Government were prepared to adopt the line of

policy indicated in that memorandum, and to support it in the Parliament. Subsequently the Treasurer introduced his new measure into Parliament, which was carried through both Houses, and under a change of Ministry became law by the assent of the Governor to the Bill. This policy, as foreshadowed in the Chief Secretary's letter of February 25th, was thus subsequently approved in Parliament. But it previously encountered the strong opposition of Sir Richard MacDonnell, who specially undertook, in a long minute, to point out his objections to Mr. Torrens' memorandum. Sir Richard said that "he had perused that document prepared by the Treasurer with great attention, and had discovered in it no policy at all resembling a South Australian policy, nor one which by partially sacrificing South Australia contributed to the general good of these colonies. On the contrary, its policy, he said, may hereafter be regarded by enemies of the Government as a somewhat tame acceptance of terms dictated by Government, one of which was supposed to be animated by no friendly spirit towards the Murray trade; whilst it also suggested and amplified the few natural difficulties what might be in the way of this colony making a better arrangement—as a glance at the map would show that smuggling by land from South Australia to the Murray beyond the boundary was no easy matter, though the memorandum represented it as forming an insufferable obstacle to any collection of the duties by South Australia, so long as

the various tariffs were not assimilated." It would serve no good purpose to continue to quote Sir Richard's remarks in opposition to the policy of his Ministry. The memorandum of Mr. Torrens and the whole correspondence were printed as Parliamentary papers, and may be read by the studious or curious, and they told against his Ministry. Sir Richard, in lieu of the system proposed by the Treasurer, urged the adoption by the Ministry of his own scheme, formerly rejected by the late Legislative Council, as not in their opinion subserving the interests of South Australia, but rather those of New South Wales and Victoria. In his argument he remarks that "the Ministry which formerly supported a system widely different from that now intended to be established by New South Wales and Victoria, should be prepared to prove the necessity which obliged them to abandon that policy. That necessity could only be fully proved by the positive rejection of such policy, either by the neighboring colonies, or by our own Legislature." Sir Rirchard seems in these remarks to have been oblivious of the fact, that the South Australian Legislature had already rejected it, and that to reintroduce a similar Bill into the House of Assembly would be to court another defeat. Yet he concludes a long memorandum of twenty pages, in its seventh paragraph, with these words—"Finally, he observed that quite independent of the simple, comprehensive, and beneficial policy of reverting to the original proposal, first

advanced by South Australia in 1855, it appeared more politic that the Ministry which afterwards supported strongly that policy in 1856, should at least offer to seek from the new Legislature an enactment similar to that rejected by the late Council." This celebrated memorandum, dated March 24th, 1857, was laid before the meeting. On May 11th, the course of policy to be finally adopted by the Ministry on this question, was fully discussed. A long minute was the result, of which I shall only give extracts. It runs in the first person, the Chief Secretary being the medium of communication between the Governor and the Cabinet. The Chief Secretary wrote as follows:—"1. The memorandum of April 18th (No. 9 of 1857) from His Excellency the Governor-in-Chief, referring to a Cabinet minute written in reply to a former memorandum from His Excellency, dated March 24th last, has now been submitted by me to the Cabinet, other important business having hitherto prevented me from considering with my colleagues that paper. His Excellency states that 'having perused the minutes of the Cabinet on his memorandum of March 24th, concerning the Murray intercolonial duties, it is necessary before that document be filed that some words embodied therein should be noticed.' 2. If His Excellency intends, as it is presumed from the above remarks, to include amongst the records of the Executive Council his own memorandum of March 24th which embodies His Excellency's argument in opposi-

tion to the policy proposed to be pursued by the present Ministry with respect to the Murray duties question, it is submitted that the reply to that memorandum in which the Ministry vindicate their policy, although considered by His Excellency to contain some errors, must also be added to the records of the Executive Council, or the record would be manifestly imperfect, and could not be properly confirmed.

3. With respect, however, to the errors alleged to be contained in the minute, the Ministry do not admit the conclusions of His Excellency, and they do not deem that it can in any way advance the question of the Murray duties policy if they enter into further controversy, either on the main objection which His Excellency advances to the course proposed to be taken by the Ministry, or on the interpretation which is to be put on the conduct and views of such of them as were members of the Executive Council under a form of Government which has ceased to exist.

4. The Ministry now, as in their last minute, distinctly disclaim all responsibility for the acts and policy of a former administration. They maintain that the principle involved in this position is inherent in the very nature of Responsible Government. (I here omit the fifth and sixth paragraphs of the minute and proceed to the seventh for reasons which appear in the seventh paragraph.)

7. Any further discussion of the subject must be not only of an exclusively personal character, but must also involve

questions affecting the accuracy of recollection of the various members of the former Executive Council, as well as the deductions to be drawn from a careful scrutiny of all the voluminous documents connected with the topic of discussion. Should any occasion hereafter arise for the personal vindication of any member of the former Council, it will be for him, individually, in such mode as he may deem most fitting, to defend the policy which the Ministry now adopt, and show in what manner it can be reconciled with his previous views and conduct." I close my extracts from a voluminous correspondence at this stage, as I write only in the interests of Responsible Government and not in explanation of my personal views. These extracts with others in connection with the postal question are given to show that Sir Richard MacDonnell sought to impose his personal policy on the first Ministry on the ground that being previously identified with it they were consistently bound to follow up his executive action as the Governor of a Crown Colony with unlimited powers. It must be remarked that under that system the Executive Council was bound by the nature and tenure of their appointments to support the policy of the Governor, however much they might differ in opinion as to its wisdom. And the support they might give in a Legislative Council, the majority in which was composed of elected members, would be justified by their obligations to the head of the Executive. Yet,

no doubt, the first Ministry, under a system of responsibility, were identified with, and paid the penalty of, the Acts of the old Nominee Government by inheriting its unpopularity. The Conservative members, and those who had been prominent in their opposition to the Government in the extinct Legislative Council, were now, most of them, elevated to the Upper House; and the Murray Duties Bill, being a money Bill, would no longer be under their control, but would be considered in an Assembly composed of men whose views had assumed a different direction; and hence their action was changed. But why did any difference in the Executive Council arise? The Ministry were, of course anxious to meet the question on a basis which they deemed would probably meet the views of the new Legislature; and these were opposed to the collection of duties by Customs' officers of South Australia on any tariff other than its own, for the time being. In the latest correspondence New South Wales and Victoria had proposed:—1st. A complete assimilation of the South Australian with the New South Wales tariff. 2nd. The establishment of a common tariff on the Murray; and, 3rd, as an alternative, the maintenance of a joint Custom House at our border, for the collection of their own duties. The consideration of these new points, into which the correspondence carried on between Sir Richard MacDonnell and the neighboring colonies had drifted, apparently removed the question far beyond

the simple plan of collecting for the other colonies any scale of duties they might wish. Yet Sir Richard adhered to his original position, and strenuously urged the Ministry to reject any scheme but his own in the expectation that the majority of the new Legislature would have been favorable to the old proposition. At this very time the Cabinet were negotiating with the Governments of the neighboring colonies for the modification of the South Australian tariff to an extent which made some approach towards the views entertained by these governments on the subject of the assimilation of tariffs. And they were, moreover, of opinion that the despatches of the governments of the neighboring colonies afforded no ground for the belief that they would again consent to the collection of their duties by this colony under discrepant tariffs. The Governor would see no plan but his own, and he could have sought other advisers had he seen fit. Without any decided action of that nature on the part of the Governor, the Ministry considered it was their duty to meet Parliament and abide by its decision as to their continuance in office.

In this stage of affairs the question of the Murray duties had come before the first Responsible Ministry for solution. The Bill introduced by Mr. Torrens was finally carried through all its stages on November 19th, 1857. It repealed the Act of March 5th, 1856, and was framed on the principle not widely different from the Bill of Sir Richard MacDonnell which the late

Council had negatived. Thus the preamble declared that, in order to prevent the interruption to traffic which would arise from the levying of duties upon goods passing up the River Murray for consumption in the neighboring colonies at the respective places in those colonies whereat they might be landed, the duties on such goods might be collected according to any scale, for the time being, *agreed upon with the Governments of the colonies of New South Wales and Victoria under regulations to be made by the Executive of South Australia, subject to an agreed charge for collection.* The Bill, as it finally emerged from the Parliament in November, 1857, appeared in a shape apparently but little different from the scheme suggested by Sir Richard MacDonnell; yet there was this difference, that while it was in Sir Richard MacDonnell's Bill imperative on the Government of South Australia, acting as agents for the adjoining colonies, to collect the duties on the River Murray according to any scale the neighboring colonies might from time to time desire, it was in the new Bill left open to negotiation in the future, even to the adoption of an assimilative tariff, and in the meantime the collection was to be made according to the tariff of New South Wales. At this date it seems unaccountable why the question assumed so personal a shape in the Executive Council, and still more so, why the old Legislative Council should have objected to the proposal of Sir Richard MacDonnell. It is not easy to trace motives

for action in the current affairs of life, and it is more difficult to form correct conclusions as to the motives of men in times so long past as the period now under consideration ; it would be hazardous, therefore, to attempt to explain the causes that moved the Governor, the Ministry, and the old Legislature, in taking the strong course of mutual opposition which certainly characterised the discussions in the Murray customs duties question in 1857. Sir Richard's imperious dictation was resisted by the first Ministry ; and probably *feeling* had much influence in shaping the conduct of the elective members of the old Legislative Council. The reports of the Select Committee on the Estimates in 1856 countenance this view.*

The ocean postal question, which was warmly discussed between the Governor and his Responsible Ministers in the early part of 1857, requires some elucidation. Before Sir Henry Young quitted the Government of this colony he succeeded in obtaining the sanction of the Legislature to an Act by which the subsidy to any steam company carrying the mails monthly between Great Britain and South Australia was fixed at £6,000 per annum, commencing from January 1st, 1854, and to be continued for three years. In March, 1855, Sir William Denison, as Governor-General of the Australian colonies, took up the subject and sought to induce the various colonies under his

* See third report of Estimates Committee, p. 3 : pp. No. 158.

jurisdiction to re-establish steam communication, interrupted by the American War of 1854, by the concurrent action of these colonies. The Acting-Governor, to whom this proposal was addressed, consulted the Chamber of Commerce in order to ascertain the views which were most likely to gain acceptance in the Legislature; and on their suggestion replied to Sir William Denison that the Government of South Australia were favorable to the scheme, and would propose to the Legislature to grant a subsidy not exceeding £12,000 a year as the contribution of this colony to secure a monthly postal communication between Great Britain and South Australia both ways. In effect, an Act was passed on May 26th, 1856, the following year, "to make provision for establishing a monthly mail communication between the Province of South Australia and Great Britain." But in the meantime the Victorian Government had been in communication with the Imperial Government, and in order to enable the postal authorities in England to conclude a contract with a steam company for the conveyance of the Australian mails without the delay of further reference to the Governments of the Australian colonies, the Victorian Government offered to guarantee payment of the subsidies required from the several colonies respectively in order to the completion of a contract then being negotiated by the Imperial Government, by which Melbourne was to be made the direct and central point of arrival and departure of the mail ships, and South

Australia was to be served by a branch service between Port Adelaide and Melbourne, at a further cost. The steam company required a subsidy of £185,000 to enable them to carry this arrangement into effect. The Home Government undertook to pay half of this subsidy, and agreed that the postages should be collected and retained at each end of the line. All payments in England to be retained by the Imperial postal authorities, and those made in the colonies to be claimed by them respectively. This scheme offered the advantages of quick and certain delivery of the mails monthly, and in these respects would have relieved South Australia from much inconvenience and uncertainty. It would have met, too, the wants of private correspondents in town and country. But the mercantile classes in South Australia objected to an arrangement by which the mail ships were to pass their door both on the outward and homeward voyage, although Gulf St. Vincent, on the shores of which Port Adelaide was situated, was within easy range of the line of transit. The electric telegraph between Great Britain and her Australian colonies was not then established, so that there were no means, as at present, of enabling importers and merchants to get the earliest intimation of the state of the European markets. It was peculiarly obnoxious to them that South Australia's great rival should obtain the first intelligence of the price-lists, upon which the merchant relies so much to govern his trade transactions. A

decided stand was accordingly made in South Australia, and the South Australian Government had little prospect of carrying in the newly constituted Legislature any Bill to join in the subsidy by which the Victorian community would obtain so decided an advantage.

The news of the acceptance of this contract by the Imperial Government arrived in South Australia in the latter end of September 1856, and at the same time the Victorian Government addressed a communication to the Chief Secretary of South Australia, proposing that a representative should be sent to Melbourne to take part in a conference for the arrangement of the branch services. In reply, after a full consideration by the Cabinet, the Victorian Government were informed that South Australia was precluded from taking part in any arrangement by the refusal of the Legislature to grant any subsidy, except in support of a monthly mail service, which should give to South Australia direct communication between England and her own port on both the outward and homeward voyages. The Victorian Government were at the same time informed that early reference would be made to the Legislative Council to reconsider the question on its next meeting. The Legislative Council had been prorogued on June 19th of that year, and did not meet again in session till November 11th, when it was fully occupied in considering the Estimates for the ensuing year, and in a few merely formal

measures. At this stage of the question the mail service, under the new contract, was commenced, and the steamship the *Oneida*, belonging to the European and Australian Royal Mail Company was on the point of leaving the port of Melbourne with, it was expected, the South Australian mails, which had been duly forwarded from Port Adelaide. In the correspondence between Mr. Rowland Hill, the director of the Imperial Post-Office, and Captain Watts, the Postmaster-General of South Australia, it had been stated that if the South Australian Government declined to become parties to the contract, their letters would be subject to a heavy charge for transit, the amount of which was indicated; but no hint had been permitted that the South Australian mails would be absolutely excluded on any terms from the benefits of the service. The surprise was therefore great when the Postmaster-General informed his Government on January 30th, 1857, that he had received a communication from the Postmaster-General of Victoria, to the effect that the South Australian mails for Europe, sent to Melbourne for transmission by the Royal Mail Steamship *Oneida*, would not be forwarded by that vessel, but by order of the Victorian Government would be sent by private ship. The next day (the 31st) the Treasurer of South Australia (Mr. R. R. Torrens), who had just returned from Melbourne, acquainted the Chief Secretary with the same fact, and added that in order to secure the transmission of the mails by the steamship, he had

been under the necessity of pledging the Government to introduce a Bill to the Legislature to enable the Government to contribute to the cost of the transmission of the mails, as though the colony had been parties to the general subsidy from the first; and as the intercolonial mail was on the point of starting for Melbourne, it was necessary to inform the Government of Victoria at once, that this Government was prepared to ratify the pledge thus given. Accordingly the ratification of this pledge was communicated in a letter of February 2nd, addressed to the Melbourne Government by the Chief Secretary. What course the Government of South Australia might have followed if the Treasurer had not restricted their action by the step he took to secure the transmission of the mails by the *Oneida*, may be open to conjecture; but the facts of history must be recorded, and on this occasion without comment. The question undoubtedly stirred up feelings not tending to the harmonious working of Responsible Government, as it was made the occasion of much discussion and remonstrance between Sir Richard MacDonnell and his confidential advisers. On February 1st, 1857, the Governor wrote a note to the Chief Secretary, in which, after reference to matters immaterial to the public, he said—"We should at once consider the course to be followed in reference to the *postal* outrage by the Melbourne people on the South Australian mail. I think we should protest energetically—as whatever may have been the faults

of the Legislature here, our punishment should have come from the home Government, and not from the Victorian. I think if I have time I shall sketch the headings of a proposed despatch on the subject. Please cast your eye over the enclosed minutes, and send them on to the clerk to have ready for confirmation—possibly this afternoon—as I think we should hold a Council at 2 o'clock p.m., if convenient to you. (Signed) R. G. M'D." On February 2nd a meeting of Executive Council was held, at which the Governor took up the question of the propriety of protesting against the course of the Victorian Government. And at the next meeting of the Executive Council a discussion ensued on this subject commenced by the Governor reading a paper stating his views. As this memorandum imparted censure to the Ministry it was protested against by the Chief Secretary. The Treasurer, also, urged objections to views imputed to himself, and, subsequently, put his own opinions into the shape of a memorandum recorded in the minutes of the Executive Council. No further correspondence took place between the Government and Victoria on the subject of postal communication until a letter, No. 567, of April 28th, followed by letters dated May 18th, No. 609, and May 20th, No. 623. But in the interim the Government introduced to the House of Assembly, which met on April 22nd, a Bill to enable this colony to be parties to the agreement for the general postal contract, and corresponded with gentlemen in the

colony on the subject, copies of which correspondence have been published.

It must be borne in mind that during the whole of this period the Cabinet was absolutely ignorant of the terms of the contract which had been entered into by Her Majesty's Government with the English and Australian Royal Mail Company ; and, therefore, could have no means of judging how far the conduct of the Melbourne Government was warranted by the terms of that contract. They were unable to judge whether, at the time of His Excellency's calling attention to the matter in Executive Council, he was or was not in possession of that contract ; but if he was, that would fully account for his being prepared to protest against a measure which he knew to be unwarranted, while the ignorance of the members of the Cabinet of the terms of that contract would justify their hesitation in joining in a protest of the validity of which they had no means of judging. The Cabinet, in fact, waited until they knew what were the rights of this colony arising out of the contract, as well as what would be the view taken by the Legislature of the course to be pursued, before deciding upon the line of conduct which it would be proper to adopt ? Since, had the Legislature affirmed the Bill introduced by the Ministry, a protest would have been needless if not impolitic. These views were communicated in writing to Sir Richard MacDonnell. Three days after the meeting of Parliament the Chief Secretary was

informed, in a note from the Government House, of April 25th, 1857, "that as the despatch of the Governor to the Secretary of State, recommending, by desire of the Ministry, the plan of postal communication suggested by the Harbour Masters' report, had been *delayed* through the *Havilah* not starting for Melbourne in time to catch the last mail, it is desirable that before forwarding it he should be placed exactly in possession of the views of the Government, more especially as His Excellency saw that the Chamber of Commerce recommended a totally different system, and he apprehended that the Home Government, if inclined to move in the matter at all, would only do so on receipt of a joint resolution of both branches of the Legislature in support of the Ministerial policy." His Excellency added, "Let me know, therefore, what is intended to be done in the matter." The Governor had at this date been fully advised of the course intended to be taken by the Ministry, and had actually, in his speech on the opening of Parliament, informed the Legislature, "that he had directed a Bill to be laid before them to authorise the Government, for a limited period, to become a party to the contract made by the Home Government for the mail service to these colonies, and to make arrangements for the branch service to this province." His Excellency's remark that the Home Government would only move in the matter on receipt of a joint resolution of both Houses was fully answered by the paragraph in his

speech which has been quoted, since the Ministry had already taken the most practical steps to procure a joint resolution by introducing a Bill which, if passed through Parliament, would effect that object, and on April 28th the Chief Secretary laid that Bill on the table of the House of Assembly. It has already been stated that up to this time the Ministry were in ignorance of the nature of the contract entered into on the subject of the Ocean Mail Service. Indeed, it was only a few days prior to April 28th that they were furnished with a copy of the contract transmitted with Mr. Secretary Labouchere's circular despatch of December 11th, 1856, and thus knew the real state of the case. It is evident that the Governor disapproved of the action of his Ministry, and that he was better informed both of the views of the Home Government and of the feeling with which the members of Parliament lately elected regarded the postal question, and he seems to have supported their opinions. The Governor had *delayed making those representations to the Secretary of State suggested by his Ministry, as he himself states in his note of April 25th*; and the question now came before the House of Assembly on May 6th, when the Chief Secretary moved the second reading of the Ocean Postal Bill. He explained to the House that this Bill was different from that of last year (No. 13 of 1856), inasmuch as the Government now ask the House to join the contract service for twelve months only, in hope that the representations

made to the Home Government, and negotiations with the contracting parties during that period, might result in some modification acceptable to South Australia. He estimated the cost of the proposed arrangement would amount to £10,000, for which we should have the benefit of being partakers in the advantages of the entire scheme—a scheme which offered speed and cheapness not to be equalled by any other plan. And as all the sea postages on letters despatched from this colony would be receivable and would amount to £3,777, which would be set against the total cost of £10,000, the full charge to the colony would be reduced to £6,222, and for this we should get our letters in fifty days. Members who opposed the Government scheme alleged that there was a probability of other companies undertaking to carry the mails to and from Port Adelaide on terms within the limits of the revenue means of South Australia; others stated that there was an alternative—they could either pay the original postage or join in the contract. The Chief Secretary, in reply to the opposition members, said that the Government could not bring in any other Bill than that before the House, for they knew of no other practical scheme which could be introduced. He did not intend to withdraw the Bill as had been suggested, but would abide the decision of the House. The previous question was moved by Captain Hart, and, on a division, was carried against the Government by a majority of two,

there being fourteen votes in favor of the Government and sixteen against them. At this stage the Governor once more intervened, and, as it afterwards appeared, addressed a despatch to the Secretary of State, dated May 7th, in which he again, as he had done in February preceding, expressed disapproval of the conduct of his Ministry—a course which his Ministry were not made acquainted with until May 25th. On May 8th he addressed the Chief Secretary, saying:—“It is necessary that I should learn, as soon as possible, what course, if any, the Government means to pursue in reference to the postal question, in case I am to make any communication on the part of the Government to the Secretary of State. Can you see me before the meeting of the Legislature—or shall I go to the offices, which I can do without much inconvenience. Yours, R. G. M'D.” On the 10th he writes again as follows:—“My dear Sir—Do you intend taking any steps, per this mail, to negotiate with the Victorian Government as to the despatch of our mails. I wish to be kept informed of all correspondence intended with the neighboring colonies, especially as it should be conducted in the Governor's name. Very truly yours (signed), R. G. M'D.” A meeting of the Cabinet was held on May 11th to consider these various suggestions of the Governor, when amongst other things a resolution was passed “*that the Ministry have no objection to use the Governor's name, provided the Chief Secretary's*

communications with the neighboring Governments are not supposed to be written under the instructions of His Excellency or necessarily subject to his perusal before dispatch."

In reply to the Governor's note of May 8th, the Chief Secretary the same day states that he can only at present say that as he knows of no better scheme than that proposed by the Lords of Her Majesty's Treasury for securing the most speedy and cheap communication, and as the Parliament on the 6th instant objected to any participation in the plan proposed by their lordships, and involved in the contract now subsisting with the steam company which conveys the mails to Melbourne and Sydney, as respects the mail service, this Government is now restricted to representations to the Home authorities, and to negotiations with the Victorian Government, to endeavor to procure such a relaxation on the terms of the present arrangement as may permit the ocean steamers carrying the European mails to touch at Kangaroo Island or Victor Harbor on both the outward and homeward voyages. The proposal of Captain Douglas, containing calculations showing that this alteration on the line of route can be effected without causing a delay of more than one day, which I placed before your Excellency some time since, if forwarded to the Secretary of State, will furnish the best argument in favor of the change in the arrangements made with the mail company that can be adduced. In forwarding his statements of the

time lost by, and the cost of, the deviation, it would be desirable also to request to be informed by the Secretary of State whether we may rely on our letters being sent by the ocean mail steamers, as heretofore, without any further payment by this colony than that at present demanded, as stated in Mr. Rowland Hill's letter to Captain Watts, announcing the commencement of the new contract. In the despatch should also be enclosed, if your Excellency has not already given the Secretary of State the necessary information, the correspondence between Captain Watts and the Postmaster-General of Victoria, in which the latter reports that the mails intended for the *Oneida* had been detained on account of the non-participation by South Australia in the general subsidy. The attention of the Home Government should at the same time be specially directed to the excess of authority and want of courtesy exhibited by the Victorian Government."

Referring to the Governor's direction in his note of May 8th (quoted), the Chief Secretary, in a note of May 11th, stated to the Governor "that, being on the point of communicating with the Victorian Government on the subject of the postal service, His Excellency would be informed of the contents of that letter. And with respect to such letters running in the name of the Governor, that such a course was not altogether convenient unless His Excellency permitted his name to be used as a mere matter of form, as he was frequently absent when important correspondence arrived,

or has to be dispatched. On other grounds also there would be serious objections, if thereby such communications were supposed by His Excellency to be written under instructions, or subject to perusal or revision before being dispatched, the Ministry being responsible." A meeting of the Executive Council was afterwards held on May 25th, at which Sir Richard MacDonnell read a despatch—No. 156 of May 7th, 1857—addressed to the Secretary of State, on the subject of the course taken by the Ministry on the postal question. This was the first intimation given to them of the contents of that despatch; and as it conveyed a censure on their conduct, it excited considerable surprise, and led to a very firm remonstrance by the Cabinet in a memorandum dated June 5th, intended for the perusal of the Secretary of State. In this memorandum, carefully prepared and *unanimously agreed to in Cabinet*, the Chief Secretary, after pointing out the course of action which had been followed, as I have already stated, it remarked "that His Excellency was in error in stating, as he had done, that the conduct of the Melbourne Government was upheld and defended by the Cabinet in reference to the withdrawal of the South Australian mails from the *Oneida* since, there never had been any action of the Cabinet, or of any members of it, in reference to that matter between the letter of the Chief Secretary of February 2nd and his letter of May 20th, in which latter communication it is shown that such conduct was assuming

a power that did not belong to the Government of Victoria, would be injurious to this colony, and would trench upon the rights of the Home Government; and which letter was not merely written and sent, but had been communicated to His Excellency before the members of the Government were aware that His Excellency had written the despatch of May 7th. It is true that at a meeting of the Executive Council His Excellency had called attention to his views upon the conduct of the Melbourne Government, and that those views had been commented upon by the Chief Secretary and the Treasurer; but it must be borne in mind that at meetings of the Executive Council the members speak in their individual capacity, unless upon matters previously submitted to and decided upon by the Cabinet; in which case the views of the Cabinet are stated by the Chief Secretary as head of the administration and its organ in all communications with His Excellency. It is, indeed, obvious that, unless this were the case, the discussions of the Cabinet would take place in the presence and subject to the intervention of persons who are not members of the Cabinet, or in any way responsible for its decisions."

The Chief Secretary added that "the Cabinet would further request the attention of His Excellency to the inconvenience which they venture to believe must result from the course pursued in this instance by His Excellency. The present is a matter upon which the Government and Legislature of this colony may have

to take action in conjunction with Her Majesty's Government in England, and yet the policy of the Ministry in reference to the matter is impugned, and a line of conduct suggested by His Excellency to the Secretary of State, as that which should have been followed, without the knowledge of His Excellency's responsible advisers, whose policy it might contravene, and whose position before the country it might seriously embarrass." "The Cabinet, in conclusion, requested that a copy of their memorandum might be forwarded to the Right Honorable the Secretary of State for the Colonies, to whom the despatch of His Excellency, reflecting upon their conduct, was addressed. This was due as a matter of justice, not merely as regards the impression which might be produced upon the Home Government by the terms of the despatch in question, but also for the justification of the Cabinet, both in this country and in England, should the despatches of His Excellency upon this subject ever be called for, for the purpose of being printed." This memorandum, dated June 5th, 1857, was sent on June 8th in time to be dispatched by the mail made up at Port Adelaide on June 13th, to catch the Melbourne ocean steamer about to proceed homeward. From May 6th the postal question was considered open to negotiation only, and in providing in their Bill before the Assembly that the power to be conferred on the Government should be limited to twelve months, within which period the Government

entertained hopes that terms more in accordance with the wishes of the community might be obtained. On July 21st the Governor transmitted to Parliament a despatch on the subject, dated April 17th, 1857, which he had just received from Mr. Labouchere, making further reference to the postal question. This despatch covered a late minute of April 11th from the Lords of the Treasury, in which it was stated that for reasons which appeared to them conclusive, the contract mail ships would be permitted to pass King George's Sound on the outward route, and proceed direct to Melbourne. They then observe that as the homeward route lies by Kangaroo Island and King George's Sound, it may be possible for the Government of South Australia to make some arrangement by which they may avail themselves of a later opportunity of dispatching their mails than any of the other colonies, Western Australia only excepted, as the steamers pass Kangaroo Island. They also remark that the cost at which they have contracted for the main service from Great Britain to Sydney, amounts to £185,000, that to this must be added the cost of the local service, and that it must therefore be fruitless to discuss the question of a direct steam service between Great Britain and South Australia, independent of the other colonies, with a sum of £12,000 only voted. "If, however," the minute proceeds, "the Government of the colony should continue to adhere to the view which it has taken, then, in common justice to this country

and to the other colonies, which are all subscribers towards this service at a considerable cost, the colony of South Australia must be excluded from the advantage of participating in the service. In that case all letters outward will be conveyed to Melbourne to be forwarded by such means as the local arrangements, irrespective of this general plan, may provide, and letters homeward will be brought from Melbourne if forwarded to that port by similar means. In the postage of such letters, outward and homeward, such a special rate will be charged as shall be equivalent to their actual cost, as it would be obviously unfair that the letters of a colony, which did not contribute to the necessary loss, which must attend the service, should be carried at the same rates as those of the Colonies which do so contribute." The above passage shows clearly that the Melbourne Government were not justified in excluding the South Australian mails from the homeward ships under contract, unless payment of the extra cost was refused.

In this state of the question, and with this additional information, the Chief Secretary, on Friday, August 7th, moved the third reading of the Postal Bill, which passed through the Committee of the whole House on August 4th. The amount of annual subsidy in this Bill was fixed at £12,000. The Bill was rejected by a majority of one—ten votes being given to the Government and eleven against them. But the

Bill was only delayed, as will be seen by reference to the Parliamentary debates. On Wednesday, August 26th, a question was put by Mr. Finniss to the Government, represented in the House by the Treasurer (Mr. John Hart), now one in the Ministry of Mr. John Baker who had succeeded Mr. Finniss on the resignation of the latter on August 12th, his resignation having been partly due to the defeat of his Ministry on August 7th. Mr. John Hart said "that they would not proceed with the third reading of the Steam Postal Bill, believing that in that respect they represented the views of the House." On Tuesday, September 8th, another change of Ministry having been effected, and Mr. Torrens, who had been Treasurer under Mr. Finniss's administration, being now Chief Secretary, proceeded with the Bill by recommitting it in order to increase the subsidy from £12,000 per annum to £15,000, moved, no doubt, by the terms of the minute of the Imperial authorities of April 11th, 1857, with reference to the smallness of the proposed contribution to the Postal Service by South Australia. The Bill, as amended in respect of the amount of annual contribution, contained, also, a proviso limiting the adherence of South Australia to the contract to the end of the year 1858, and also adding the condition that the ocean steamers should touch at Kangaroo Island on the homeward route. In this shape the postal question was remitted to the Upper House, where it was read a first time on September 10th.

But the Postal Bill, which had originated in Mr. Torrens's pledge to the Melbourne Government at the early part of the year, was not to be settled by him. Another unexpected change in the Government ensued, when on September 23rd Mr. Torrens' resignation, on his defeat by seventeen votes against fourteen, placed Mr. Younghusband as Chief Secretary under the premiership of Mr. Hanson, Mr. Younghusband being a member of the Upper House as Mr. Baker had been when appointed Chief Secretary. Mr. Hanson still retained his seat in the Assembly as Attorney-General and leader of the Government. In his administration the Postal Bill again revived, and became law on November 19th, 1857. It was announced in the Assembly by the Attorney-General that, as the result of late negotiations, the Melbourne Government were prepared to allow South Australia to enter at once into the full operation of the Postal Service, to date from November 15th, 1857. I should here state that the Bill, as passed, contained a proviso limiting any arrangement for communicating by way of the other colonies to December 31st, 1858, unless on the condition that line ocean steamers touch at Kangaroo Island or some other port of the province, for the purpose of conveying the return mail to England. I should also add that the period for the termination of the contract with the European and Australian Mail Company had been originally fixed for the end of the year 1861.

It is not my purpose on the present occasion to give any further details of the history of the mail service between Great Britain and South Australia, as I do not intend to continue the development of Constitutional Government beyond the close of the first session of the first Parliament. Indeed, I should not have entered so minutely as I have done into the merits of the Ocean Postal Service, which can have little interest in these later times, but for the circumstance that the question is intimately connected with the adjustment of the relations between the Governor and his first responsible ministers, and between them and the first Parliament—an adjustment not effected without serious political conflicts, which led to three changes in the administration within as many months, and to a struggle for power between the two Houses of Parliament.



CHAPTER X.

Governor proposes to visit Melbourne to confer with the Governors of the neighboring colonies—The Ministry do not advise the Governor to leave the colony in any official capacity—Governor consults the members of the Cabinet separately—Remonstrance of Chief Secretary against the system—Governor writes despatches to Secretary of State proposing an increase in the Executive Council—Ministry object—Chief Secretary writes protesting against alteration in the Royal Commission, suggested by the Governor, and in the proposal to increase the numbers of the Executive Council through exercise of the Royal Prerogative—Weakness of the Ministry through the opposition of the Governor and of the Parliament.

IN this chapter I shall continue, and I hope to bring to a close, the adjustment of the relations between the Governor-in-Chief, Sir Richard Graves MacDonnell, and his first Ministry under Responsible Government. Differences of opinion had arisen on two important questions of colonial policy, namely, the collection of duties of customs on goods waterborne on the River Murray, and destined for consumption in the neighboring colonies of New South Wales and Victoria, and the ocean postal service between Great Britain and South Australia. The reader cannot have failed to perceive that on both these questions the views of the Ministry were at variance with those of the Governor. The ultimate decision lay with the House of Assembly, and the verdict did not support the Government. It was

evident throughout the discussions that the Opposition were in accord with the action of the Governor, both in his public despatches to the Secretary of State and in the course which he followed in his communications with his Ministry. And yet the Governor did not withdraw his confidence from them. Indeed he professed to adopt their advice, as may be seen in the following written communications which passed between him and his Chief Secretary. On June 16th, 1857, the Chief Secretary, after consulting the Cabinet, wrote to His Excellency—"His Excellency is recommended to concur in the arrangement proposed by Mr. Rowland Hill, as ensuring us an important benefit at a cost equally divided between the colony and the mother country. The objection of the Postmaster-General applies only to the mode of accounting and remitting, and should not be urged against Mr. Rowland Hill's plan, as in exchange for the extra trouble of accounting and remitting, this colony will get a larger share of the postage than otherwise, since registered letters will more frequently be sent *from* England, than from hence *to* England. At all events, if every colony makes objections of this kind, it will be impossible to have a uniform system at home, and without uniformity there must be increased cost." (Signed) B. T. FINNISS, Chief Secretary." To this the Governor replied—"I am sending by next mail a reply to that effect, that this Government adopts the suggestions of Her Majesty's Government. At the

same time I add a statement of the opinion of the Postmaster-General here as to the simple expedient of each office retaining the registration fees. (Signed) R. G. M'D., July 2nd, 1857." The Ministry here, as throughout the postal question, appear not to have had the support of the Governor, and the effect of a despatch from so high an authority, especially when made known to the public, as all such despatches were, could only have a damaging and weakening effect upon the Ministry, and encourage the Opposition in Parliament to persevere in their objections to the Government Bill, as is indeed evident when the debates are consulted.

But there were other points in which it was apparent that Sir Richard reluctantly yielded the great prerogative of the Governor of a Crown colony. His Excellency for some time continued the course of sounding the views of his ministers individually before his own intentions were formally expressed in Executive Council and recorded. The system led to much distrust, as members of the Cabinet were thus led to form conclusions, and commit themselves to opinions on the arguments adduced by the Governor, whose personal qualities gave great weight to his suggestions, and were difficult to resist; whilst individual members so appealed to were under the disadvantage of not hearing such questions discussed in open cabinet meetings, and thus learning the views of their colleagues. To obviate this inconvenience,

which really struck at the root of Responsible Government, the Ministry at a special meeting came to a resolution "*That no matter of public policy should be discussed in Executive Council, unless previously agreed on in Cabinet; and that if the Governor introduced any subject for consideration requiring the united action of the Ministry, an adjournment of the Executive Council should be moved;*" whilst the minute further added, "*that any written memorandum referred to members individually by the Governor, should be brought under the notice of the Cabinet by the first minister to whom it was sent.*" The necessity of such a rule as this became evident in a very short time. Thus on *May 23rd*, 1857, the Chief Secretary received from Sir Richard MacDonnell a note in these words—"My dear Sir—I send for your perusal (please return them) two letters—one from Mr. Oppenheim, about the Government House fittings and furniture, which I confess is a great relief to my mind; and the other a note from Sir Henry Barkly himself. Last mail brought me another from Sir William, who also renews his often expressed wish to meet me and Sir Henry Barkly together. I think some decision should be come to at once on this point, as I shall not stir unless the Ministry think it advisable for me to meet them. It would occupy nearly three weeks of my time. You will perceive with pleasure, I have no doubt, that the great difficulty of getting the Victorian Government to reconsider the Murray duties question

has been overcome, and I hope no further difficulty will be made about accepting the offer of collecting the duties according to the New South Wales tariff. But I would suggest that if a Bill be introduced here, it should legalise this Government's collecting *any* duties imposed by either New South Wales or Victoria. Yours truly (Signed) R. G. M'D." On *May 26th*, the Governor sent to the Chief Secretary the following note:—"I sent for my letter to you of the 23rd instant, that I might learn how far you could possibly have inferred from thence my desire either to obtain advice from the Cabinet as to my meeting Sir William Denison and Sir Henry Barkly, or as to meeting them as a 'delegate' on public business, which the communication made to me this morning on the part of the Cabinet would lead me to suppose were subjects that I had begged you to obtain their opinion on. I certainly perceive that in my note I express my conviction that, in reference to my meeting the Governors of the other colonies, I thought an early decision should be come to; but I regret that it did not occur to you as a natural inference that I could not have anticipated such a subject being discussed without my having an opportunity of stating what the object or utility of such conference might be. Without such opportunity the advice of the Cabinet is much diminished in value, whilst their opinion as to the Governor acting as a delegate is wholly irrelevant. I recognise no fetters

binding the Governor of this colony which do not equally bind Sir William Denison in such matters, or Sir Henry Barkly; and if my note, the envelope of which was marked 'confidential,' and the tone and tenor of which were strictly so; or if Sir Henry Barkly's note was laid before the Cabinet, I think you greatly erred in doing so, though acting with the best motives.—Believe me to be, most truly yours (signed),
RICHARD GRAVES MACDONNELL."

Copy of enclosure in a private note to the Governor, May 25th, 1857.—"Having, in accordance with the wish of His Excellency the Governor-in-Chief, communicated to me on the 23rd instant, considered with my colleagues the question of the proposed visit of His Excellency to meet the Governors of the adjacent colonies, His Excellency is not advised to leave the colony in any *official capacity*, for the following reasons:—1. The Ministry do not think that the terms of the Royal Commission and Instructions contemplate the departure of the Governor from the colony, and the consequent appointment of an Acting-Governor, unless on some special emergency. 2. Under the new Constitution considerable embarrassment and inconvenience would result if the Governor should act in any public matter whilst absent from the colony without the advice and consent of his Executive Council. 3. The position of the Governor of this colony is too exalted to admit of his acting as a delegate in any case when his acts must necessarily be subject to

discussion by the Legislature, and would have no validity unless confirmed by that body.—(Signed) B. T. F.”

With the advice and sanction of the Cabinet, the following letter was sent to His Excellency :—

“ Chief Secretary’s Office, May 27th, 1857.

“ My dear Sir Richard—The remarks in your note referring to the confidential nature of the communication which you addressed to me on the 23rd instant require that I should be explicit and candid in making my views upon such communications known to your Excellency. It appears to me that there can be no confidence between a Governor and the individuals of the Ministry, apart from the others, unless when a change of Cabinet is in *contemplation*, or the subject is one not of general concernment or policy. If it were otherwise the Ministry would be the mere instruments of the Governor, without a policy of their own, instead of being, as our Constitution imports—a limited body, giving effect, through their advice to him, to the popular will, which they represent so long as they have the support of a majority in the Legislature or in the country. Whilst on my part I feel that it is not consistent with the united action of a Responsible Ministry, of which I am regarded as chief, to have confidences in which they do not participate on matters of public and collective concernment, I deem that on their part there should be a similar understanding; and if I found that private and confidential intercourse subsisted between any member of the Ministry and your Excellency on matters of public policy, I should consider that the public service would be seriously damaged by the weakness and distrust which would be occasioned in the Government. As to the important subject in your Excellency’s note of the 23rd instant, which gave rise to my reference to the Ministry to aid me in advising you—as I supposed in accordance with your expressed wish—namely, your Excellency’s contemplated visit to Melbourne—I could have no doubt, from the tenor of that note, that your Excellency desired to have the opinion of the Ministry thereon at once. But had I not regarded the intimation as a direct request to be early informed of the views of your Government through means of advice, I should nevertheless have felt it my duty, in justice to myself and the Ministry, upon receipt of a communication conveying the information that your Excellency contemplated a visit to Victoria to meet the Governors of the adjacent colonies, to have ascertained, by reference to my colleagues, and to have apprised you of the nature of the advice which would be tendered to you on the subject, since otherwise my silence might lead

your Excellency to infer acquiescence or assent on my part and theirs. It was the more important to place the views of the Ministry before you, because previous verbal communications from your Excellency, confirmed afterwards by what fell from you in Executive Council held on the day of the date of my last note, namely, the 25th instant, led to the conclusion that one of the objects of the proposed conference would be the discussion of matters of public concern affecting the interests of this colony.—I remain, &c., &c.,

(Signed) “B. T. FINNISS, C.S.”

The Ministry by this time were fully alive to the impetuosity of the Governor's temperament, and his endeavors to take the part which he had always asserted of acting on his own judgment and authority. A meeting of the three Governors at such a moment, when their powers were Constitutionally limited by the operation of the Constitution Act which had recently become law in all the Australian colonies except Western Australia, could scarcely have been merely a social gathering; and the Ministry considered it their duty, in the interests of Self Government, to leave Sir Richard MacDonnell responsible for the issue if he should persist in carrying out his intention of proceeding to Melbourne. Public matters it was seen would be discussed by the conference of Governors without the advice of the Responsible Ministry to assist Sir Richard in the result, and pledges and promises might have seriously embarrassed the Government. Hence their action was prompt and decisive in not advising the Governor to join the conference. But as if to strengthen the power of the Governor in his resistance to the working of Responsible Government,

Sir Richard communicated to the Cabinet the contents of a despatch which he was addressing to the Secretary of State, recommending that he should be empowered to add to the numbers of the Executive Council, and further suggesting to the Home Government that a change in the Royal Instructions would be required to meet the altered condition of the Government in the event of the death or absence of the Governor from the colony. The Royal Instructions as subsisting at that date devolved the administration of the Government in such a case on the senior member of the Executive Council. Sir Richard contended in Executive Council that as the senior member of the Executive Council would, under the Constitution Act, be now a party leader, owing his position to the suffrages of an electoral body, it was no longer expedient that the rule should continue in force. Accordingly he made suggestions to the Secretary of State proposing that Her Majesty should make other provision for the appointment of an Acting-Governor in any case required. Although the latter of these questions was an Imperial one, it was also important in its bearing on colonial interests. The proposed power of adding to the Executive Council other individuals than those expressly mentioned in the Constitution Act was a glaring attempt to neutralise self government. The Chief Secretary therefore considered it his duty to take action on these two points, and accordingly applied to Sir Richard for a copy of the despatch in question.

In reply to this application the Chief Secretary received a note from Sir Richard in the following words :—

“Government House, July 22nd, 1857.

“My dear Sir—I fear that it will be physically impossible for my private secretary to make copies of my despatches for either the Government Printer or the use of members of Executive Council—otherwise I am most desirous of affording you and the members of the Ministry ample information as to my communications to the Secretary of State. I have already told you that you can always see my despatches at my office. I see no other plan to adopt in reference to your present request than to summon an Executive Council for Saturday forenoon at 11 a.m., and refer the matter again to the Executive Council, when the draft despatch, written the same day as our last Executive meeting, will be raised and made legible and laid by me before you ; and, seeing the importance of the questions, I shall probably best consult my duty by leaving the Council to deal with it as well as with other questions, though I am as strongly as ever of opinion that the advisers of the Governor ought not take on themselves, as a body, officially to advise the Queen as to whom Her Majesty may select to represent her in any part of the British Dominions.

“Believe me, very truly yours,

“RICHARD GRAVES MACDONNELL.

“P.S.—I perceive you make a mistake as to despatch read by me in Executive Council. It referred to the constitution of that body and not to the administration of the Government.”

“The Hon. B. T. Finniss.”

To this note on July 23rd, the Chief Secretary wrote :—

“My dear Sir Richard—I presume the meaning of your note of yesterday is not to object to my having copies of any despatch which may enable your Government to know what is officially passing between Your Excellency and the Home Government on subjects affecting the interests of the colony, but simply to inform me that the private secretary cannot make copies of these despatches, having too much to do. The mere perusal of any despatches which may be put into my hands at Government House would not enable me to derive the information I might seek. I cannot, therefore, suppose that Your Excellency intends otherwise than that I should find the means of copying the despatches. I have accordingly sent Mr. O'Halloran, a confidential clerk in my office, to whom, under secrecy, is specially

intrusted the copying of confidential documents, to obtain from the private secretary permission to copy any despatch which you may have written to the Secretary of State on the subject of the provisions in the Royal Commission or Instructions. My object in writing yesterday for a copy of the despatch which you proposed—as stated in Executive Council—to address to the Secretary of State on the subject of an alteration in the mode prescribed of providing for the temporary administration of the Government during the absence of the Governor-in-Chief was to enable me to consult with my colleagues in the Ministry and to address the Secretary of State personally, which, as an individual in or out of office, I am expressly permitted to do with reference to Your Excellency's proposed plan. Being in office I have special reasons for making that communication by the same mail as the despatch; and, therefore, if the despatch is not written I shall be glad to know when it is in a state to be copied. Mr. O'Halloran can also now—if Your Excellency is prepared with a draft—make a copy of the despatch proposing an addition to the Executive Council. As it appeared to me from my recollection of Your Excellency's remarks on the draft which you read, that, if made in the mode and to the extent proposed by Your Excellency, the working of Responsible Government might be seriously obstructed, I am desirous of considering it well.

“(Signed) B. T. FINNISS, Chief Secretary.”

On July 24th the Governor writes also:—

“My dear Sir—Having promised a copy of the despatch on the re-constitution of the Executive Council, read at our last meeting, for the use of the Ministry, Mr. Paisly has made a legible copy of the draft for that purpose; but to save time I forwarded it this forenoon to the Attorney-General that he might make any suggestions he thought proper as to my interpretation of the legal effect of portions of my commission and instructions. I did this because I think it probable I might alter the draft at once on his suggestion, so that the Ministry might the sooner have before them the draft I propose sending. He has it now and can show it to you. For the same reason I wish to read the draft of my despatch touching the administration of the Government at Executive Council next Saturday; for it is possible that suggestions offered by the members may lead to an alteration of the draft in many particulars; therefore a copy of it in its present state might be a copy of something which I might finally not wish to send, and so you would be misled. You need have no apprehensions, however, of my not forwarding any remarks you may wish to make by the same mail as that carrying my own despatch, for I shall hold back the latter expressly to accommodate you.—Believe me to be, &c., &c.,

“(Signed) RICHARD GRAVES MACDONNELL.”

Again the Governor writes under date July 31st:—

“My dear Sir—Don’t forget to let me have a duplicate and triplicate of your memorandum on the proposed alterations in the Royal Instructions, as I fear we shall be greatly hurried in my office.—Yours truly,
 “(Signed) RICHARD GRAVES MACDONNELL.”

Again Sir Richard writes:—

“Government House, August 4th.
 “My dear Sir—I find the despatches about the alterations of the Governor’s Commission and Instructions were forwarded by Mr. Torrens to you. I am very anxious that they should pass through the hands of the members of Executive Council as speedily as possible, for there will be difficulty to have them revised and copied for next Saturday’s mail. I may mention that I have not received the duplicate and triplicate of your memorandum on those despatches.

“(Signed) RICHARD GRAVES MACDONNELL.”
 “The Honorable B. T. Finnis.”

In reply to these notes, and to the despatches of Sir Richard MacDonnell to the Secretary of State, the Chief Secretary wrote as follows:—

“Chief Secretary’s Office, Adelaide, July 28th, 1857.

“Sir—I have been honored with a perusal of the draft despatches of your Excellency dated, respectively, July 17th and July 20th, instant, on the subject of certain alterations suggested to the Secretary of State in the constitution of the Executive Council, and in the mode by which the government of the colony should be administered in the event of the death or absence of the Governor-in-Chief. It is my desire that this letter should be regarded as my protest against any alteration in the Royal Commission or Instructions on the principles recommended by your Excellency, and I accordingly have the honor to request that copies may be transmitted to the Secretary of State as enclosures to those despatches. My reasons for dissenting from the course advised by your Excellency, and to some extent concurred in by the other members of the Executive Council, are briefly these:—With respect to any increase in the Executive Council, it is to be observed that no addition to the number of official and responsible advisers of the Governor, who are designated in the Constitution Act as the persons holding the offices of Chief Secretary, Attorney-General, Treasurer, Commissioner of Crown Lands and Immigration, and Commissioner of Public Works, can be made without an Act of the Parliament of South Australia. Although it may hereafter prove desirable,

with a view of strengthening the Government in both Houses, to add to the Ministry there is no present intention on the part of your Excellency's Government to introduce a measure for that purpose, or to propose such a step to your Excellency; and when it may be determined no alteration in the instructions would be requisite, since the Act creating any office a ministerial one, would at the same time make the holder a member of Council *ex officio*. The proposal can only, therefore, have reference to the power of appointing non-official advisers to seats in the Executive Council. This power would, I think, operate to damage and obstruct the working of Responsible Government, by giving the Governor the right to such advice from members of the Government not directly responsible for the consequences; for having no office to lose there could not be that degree of responsibility which is intended by our Constitution, and which invests the possession of powers with the obligation to surrender it when the Ministry does not work in harmony with the Legislature. It could not conduce to strengthen a Ministry, and it could not be fair to them to have their intentions liable to be thwarted by non-official advisers, whose position could not be seriously affected by any defeat in Parliament. If such a power of appointment were given to your Excellency, I cannot conceive any condition under which, if I were in office, I should feel it prudent to recommend its exercise in favor of any individual whomsoever; therefore I deem it an unnecessary power to give to your Excellency. With respect now to the next question, namely, the person by whom the affairs of this colony should be administered, in the event of the death or absence of the Governor, I again beg to record my protest against any change in the terms of the Royal Commission. I do not share in the doubts of your Excellency as to the person on whom would devolve the Government of the colony in either of the cases contemplated. I should, undoubtedly, assume such a position myself, as the senior member of the Executive Council, and I should, when I ceased to hold office, regard my successor in the post of Chief Secretary, as the person next entitled to that honor. Nor do I concur in the view which would render the possession of the confidence of the Legislature, and the election to a seat in the local Parliament as a disqualification to act as Governor. It being said that the Chief Secretary is now a party man, is only what was true of every Governor who administered the Government of any colony before the abolition of nominees in the Legislature and the establishment of Responsible Government. Every Governor was then of necessity a party man, and was frequently the head of that party which represented the minority in the country, as the many memorials of colonial grievances amongst the records of the Colonial Office in Downing-street can testify. Hence the mere fact of being a party leader cannot be a valid cause of disqualification. But on the other hand the fact of

being a party leader having the confidence of the Legislature, must operate both to secure harmony between the Government and the country, and to promote the interests of the public by placing a man in the possession of the highest power, who had shown by his possession and retention of political power that the administration of Government would fall into the hands of an experienced and capable person. And it would be an additional advantage, that in the event of the elevation of the Chief Secretary to the post of Acting Governor, the Ministry would, if reconstructed, still be formed from that party to which he belonged. The appointment would rest with him, and he would have every motive to continue in power that party which then possessed the confidence of Parliament. I do not propose to argue against the extreme views taken by your Excellency when you assume 'that it might happen also that when called to administer the Government by virtue of his position, his ostensible claim thereto as Chief Secretary might be about to expire,' seem to apply a remedy equally extreme with the argument, the Governor would have it in his power at the last moment, if he doubted the fitness of the person then holding the office of Chief Secretary, to assume the administration of the Government from the above or any other cause, to remove him from office, and substitute a more suitable person in his place. But not to pursue this point further, I have now, in conclusion, only to observe that the military force in South Australia consists of a captain's guard, or company, having on its staff a major commandant. I do not think that military men, not of superior rank, and not experienced in civil affairs, would be so likely to continue the harmonious working of the system of Government established in these colonies under the new Constitutions, as an individual who must, in order to become Chief Secretary, have had considerable experience in the conduct of civil business, and must also possess the confidence of the Governor, who selects and appoints him for the office, either from the whole colony over which he may cast his view in making his choice, or from the Legislature. In either case it cannot be said that the Governor's choice would have any restriction but that of fixing upon some individual in whom the country had confidence—in my opinion no indifferent recommendation.

(Signed) "B. T. FINNISS,
"Chief Secretary.

"To His Excellency Sir R. G. MacDonnell, C.B.,
"Governor-in-Chief."

On reviewing the correspondence it is apparent that Sir Richard MacDonnell could not divest himself of the idea that he was the responsible head of the

administration, and that his powers had suffered no diminution under the operation of the Constitution Act. He used every means which his position gave him to weaken the effect of Responsible Government. In his despatches in which, although professing his willingness to place them at the disposal of his Ministry, he seems to have forgotten that he was bound, as a Constitutional Governor, to receive and support the views of his Ministry as long as he retained them in power, and to communicate nothing to the Secretary of State on any political question without their advice and concurrence, and with their full knowledge of the tenor of his correspondence on matters affecting the government of the colony. Yet it will be seen that he really exhibited reluctance to make his Ministers acquainted with his reports to the Secretary of State, and that when he could not avoid this obligation he evaded it under various specious pretexts. Indeed, his Chief Secretary never felt confidence that he was made acquainted with all that passed in correspondence with the Home authorities, or that despatches placed before him were finally transmitted. Sir Richard sowed distrust in the Cabinet by preselecting in communicating important despatches to ministers individually, and that distrust tended to emasculate Responsible Government and ultimately led to a divided Cabinet, which was what he seems to have aimed at, acting on the maxim well known to kingcraft, "*Divide et impera.*" His last attempt was

to strike a deadly blow at self-government by his recommendation to the Secretary of State to empower him to increase the Executive Council in defiance of the Constitution Act which, from a strong motive, limited and defined the nature of the Executive Council as originally constituted in Crown Colonies, so as to make the Government the servants instead of the masters of the Legislature. But Sir Richard had a strong party who upheld his views and who, after the establishment of Responsible Government and the vesting the power of the purse in the House of Assembly—dreading the power of Democracy, were content with the despotism of a Governor rather than trust to the power of a self-governing community. The Conservatives, as I shall call the party, took up their position in the Upper House, and did not scruple, when occasions offered, to exhibit their proclivities even to the destruction of Responsible Government. The speeches of the Conservatives in the Upper and Lower Houses exhibit either a want of knowledge of the meaning of Responsible Government or a dislike to the power which it gained at the expense of the Crown prerogatives and a secret apprehension of the perils of capital in its relation to universal suffrage. The contest between the House of Assembly and the Legislative Council for the power of the purse brought matters to a crisis, and saved Responsible Government from the subtle antagonism of Sir Richard MacDonnell, which was entirely concealed from public knowledge and the

open hostility of the Conservatives intrenched in the Legislative Council. The resignation of the first Ministry had long been foreshadowed, and assisted to promote the success of Responsible Government by opening the eyes of ambitious and able men to what was passing behind the scenes when the doors of office and mystery, thrown open to their view, disclosed the dangers that beset their free constitution and left the chariot of the state to their guidance. The weakness of the first Ministry was apparent from the very first. It was composed of incongruous elements. High-reaching ambitions were ready to grasp the reins of power and self-interest discerned in the distance the inviting fields of place and patronage. Thus there was no coherence in the first Ministry. The members of Parliament had not yet adopted the system of party government, for there were no party cries to disturb the general political atmosphere. In despoiling the Crown of its prerogatives the two Houses of Parliament became at peace with the Governor, and had not yet learned that the destinies of the country were in their hands, but could only be successfully administered and promoted by a Ministry of able men who must needs be supported by a majority willing for a time to forego the pursuit of power and suffer individual opinions to be moulded into the shape of general principles, till the fulness of time should open to them the rewards of honorable ambition.

CHAPTER XI.

Continuation of the rule of Sir Richard Graves MacDonnell—Completion of elections and meeting of the first Parliament—List of members returned in appendix with copy of Constitution Act—Governor's speech—Mr. John Baker the leader of the Conservatives—Tonnage Duties Repeal Bill introduced on the first day of business—Passes all its stages in the Assembly and is sent to the Legislative Council—Amendment by the Legislative Council and return of the Bill as amended—Question of the powers of the two Houses as to Money Bills arises—Governor interposes in the discussion of the Standing Orders—Chief Secretary advises that it is a breach of privilege—Legislative Council address the Governor to obtain the opinion of the Law Offices of the Crown on the privilege question—Governor advised that it would be unconstitutional—Defeat of Mr. Finniss's Ministry—Their resignation—Mr. Waterhouse sent for, but unable to form a Ministry—Mr. John Baker's Ministry—Governor's minute on Mr. Finniss's resignation—Mr. Finniss gives his explanation of the proceedings on his tender of resignation—Mr. Baker's Ministry resigns—Mr. R. R. Torrens succeeds in forming a new Ministry—His defeat by a vote of censure and the appointment of Mr. Hanson's Ministry—They settle the privilege question—The Real Property Act—Close of first session of Parliament.

THIS chapter will be devoted more especially to the events arising out of the action of the new Parliament. The first South Australian Parliament, composed of two elective Chambers, came into existence on February 2nd, 1857, by the issue of writs for the election of its members, when the old form of Legislative Council, in which the members were only partly elective under an ordinance (No. 1, of 1851) passed on February 21st, of that year, ceased to exist.

The elections were completed on March 9th, 1857, and the two Houses met for the despatch of public business on April 22nd, 1857. This Parliament continued in session until January 27th, 1858, when it was prorogued for the recess. The number of members consisted of eighteen elected to seats in the Legislative Council, and thirty-six in the House of Assembly. Each member of the Upper House was entitled to be called the Honorable as soon as he was elected to his seat. I shall not lengthen this chapter by reciting the names of members, although they are justly entitled to be recognised in any history of South Australia; but their names, the districts they represented, and a copy of the Constitution Act of October, 1856, under which they derived their honors and authority, will be printed in the appendix to this volume.* It is worthy of note that the four members of the Executive Council at the time of the passing of the Act, were elected to seats in Parliament by large majorities, showing that although so long serving the Crown in a paid official capacity, they had earned respect and popularity. I am assisted in my labors at this point by having it in my power to refer as occasion occurs to the printed pages of an epitome of the debates in Parliament, known as our colonial *Hansard*, the first compilation of which was published in 1857-58. I avail myself of the information it contains to recite

* See in appendix B.C.

the Governor's speech on the occasion of the opening of Parliament, which, however, was not the first business to be transacted. Each House of Parliament was called upon to elect its President. The Legislative Council unanimously chose the Hon. James Hurtle Fisher to preside over their deliberations. Mr. George Strickland Kingston, afterwards better known as Sir G. S. Kingston, Kt., took the chair of the House of Assembly as Speaker, by election. When the usual presentations of these gentlemen had been made to his Excellency the Governor-in-Chief, Sir Richard MacDonnell opened the business of the session in an address delivered from the raised dais on which he had taken his seat in the chair of state prepared for the occasion, in the Chamber of the Legislative Council. Sir Richard Graves MacDonnell, C.B., first desired the attendance of the members of the Assembly. On their entry with the Speaker His Excellency rose from his seat and said: "Honorable Gentleman of the Legislative Council and Gentlemen of the House of Assembly—1. I have assembled you for the dispatch of business thus early in accordance with that provision of the Constitution Act which requires that you should assemble within six months from the time of its proclamation. 2. I am happy in being able to announce to you that the present financial position of the province is highly satisfactory—the revenue of 1856 amounting to four hundred and fifty-six thousand pounds, together with the available balance brought forward from previous

years, have sufficed to meet all expenditure for the service of that year, including that on account of immigration, leaving a balance exceeding two hundred thousand pounds, available for the service of the current year. 3. During the past quarter the proceeds of the chief sources of revenue have so far exceeded the moderate estimate of Ways and Means adopted by the late Legislature as to afford assurance that a balance exceeding one hundred thousand pounds will remain to be appropriated, after defraying all liabilities, as yet authorised on account of the service of the current year. Gentlemen of the House of Assembly—4. The details of these amounts will be submitted to you with the Supplementary Estimates for the current year at an early period of the session. Honorable gentlemen and gentlemen—5. That the sound financial position of this colony is generally appreciated, is evidenced in a satisfactory manner by the facility with which Government securities are disposed of at moderate premiums in England and the adjacent colonies. 6. It will also be satisfactory to you to learn the following facts connected with our material progress during the past year:—The population, as nearly as can be deduced from previous returns, from the difference between arrivals and departures, and from excess of births over deaths during the year may now be estimated at about one hundred and nine thousand souls. The land sold by the Government during the year ended April 1st, amounted to

one hundred and eighty-eight thousand acres, and the price realised to upwards of two hundred and twenty-nine thousand pounds, whilst the quantity under cultivation exceeded two hundred and three thousand acres—of which wheat and other grain crops formed more than one hundred and seventy-two thousand nine hundred acres. The extent of Crown lands held under leases comprises about twenty-four thousand square miles, which is divided into four hundred and eighty-five holdings, yielding an annual rental of thirteen thousand three hundred and eighty pounds. The foreign trade, as exhibited in the Customs returns during 1856, shows the value of the imports for consumption in the colony at one million two hundred and five thousand and sixty-nine pounds, and the value of the exports of the staple produce of the colony at one million three hundred and sixty-four thousand nine hundred and four pounds. Of this total export the value of grain and flour amounted to five hundred and thirty-four thousand seven hundred and eighty pounds; of wool to four hundred and twelve thousand one hundred and sixty-three pounds; and of ore and metals to four hundred and eighty thousand and forty-three pounds. I have much gratification in calling your attention to the indications of advanced prosperity furnished by the above analysis.

7. The repeal of the Act of Parliament which has hitherto regulated the sale of the waste lands of the Crown in this Province imposes upon you the task

of forming a system for their future management, and I have caused a Bill to be prepared for this purpose which will be laid before you at an early day. That Bill adopts the main features of the previous law as regards the mode of disposal of the waste lands of the Crown; but it prescribes no fixed appropriation of these proceeds, leaving it to the Legislature, for the time being, to determine, in accordance with the varying wants of the community, to what objects they shall be applied and in what proportion. 8. There will, at the same, be laid before you a series of resolutions embodying provisions designed to afford encouragement to the nomination of immigrants by persons settled in the Province, and the voluntary or assisted immigration of suitable persons who may arrive in the colony without aid from the public revenues. These resolution will also contain, as an important feature, a provision that the powers and functions of the Land and Emigration Commissioners in England shall henceforth be exercised by persons responsible solely to the Government of this Colony. 9. With reference to the means of communication and transport—so important in all new countries—Bills will be laid before you providing for the amendment of the system at present in force as regards main roads, and for the extention of the present railway from Gawler Town northward as far as Kapunda, and eastward towards Gumeracha as far as the base of the hills. The increased facilities and diminished cost of transit,

resulting from the use of railways and the saving in the cost of roads which must otherwise be constructed, appear fully to justify the proposed contention, while the resources of the province are abundantly adequate to meet any temporary burden which it may occasion.

10. Concurrently with these measures your attention will be directed to a plan for developing the trade on the River Murray, and securing to this province the terminus of that navigation, by affording facilities for the shipment of river-borne goods at Victor Harbour in sea-going vessels. In connection with this trade I have to inform you that the original arrangement made with New South Wales and Victoria for the collection of duties on all river-borne goods imported into these colonies has been superseded on the part of the Government of Victoria since March 1st last. I have directed copies of the whole correspondence connected with that subject to be laid before you, from which you will perceive that the Governments of New South Wales and Victoria propose to adopt in common the tariff of New South Wales, and to collect the duties under that tariff through the instrumentality of a joint Custom house at the junction of boundaries, unless the Government concur in adopting the same tariff. The negotiations on this important point are still pending, and there are grounds for belief that a conclusion may ultimately be arrived at advantageous to the common interests involved.

11. I have also directed a Bill to be laid before you to authorise this

Government, for a limited period, to become a party to the contract made by the Home Government for the mail service to these colonies, and to make arrangements for the branch service to this province. 12. I have also directed to be laid before you a Bill to amend the present education law; both with a view to the enlargement of the present system and to its more effectual support. This measure leaves untouched that principle of the present law which declares that education shall be based upon the Christian religion without doctrinal teaching; but it is intended to provide for the erection, throughout the settled districts of the province, of suitable school-buildings, and for the augmentation of the stipends of teachers; and it provides for the cost thus occasioned by the imposition of an education tax. The details of this measure will, I have no doubt, receive at your hands that attention which is due to the importance of a system on which must mainly depend the qualifications of the future generations of the citizens of this province for self-government. 13. Your attention will also be directed to a revision of the Electoral Law, which has been found to be cumbersome and costly in its present form; and a Bill will be submitted to you for applying a remedy to these evils. 14. The present system of Responsible Government under which the Ministry is virtually appointed by, and holds office at the will of an Elective Legislature, appears to have removed every ground for the

appointment of boards to perform various executive functions, and appears to afford a fitting opportunity for bringing under the direct and immediate control of the Government several works which are now by law placed under this machinery. I have, therefore, directed Bills to be prepared and laid before you for removing the Railway Commissioners, the Waterworks Commissioners, the Harbor Trust, and the Central Road Board, and for placing the undertakings now carried on by their instrumentality under the direct control of the Commissioner of Public Works, with such assistance as may in each case be deemed necessary. 15. Among the other important topics to which your attention will be directed the reform of the law will doubtless occupy a prominent place, and I have directed various Bills to be prepared and laid before you bearing on this subject. They will include a Bill to amend the law of real property, which will provide for the distribution of landed property in cases of intestacy in the same manner as personal property is now distributed, and will simplify the evidence of title by shortening the period within which actions for the recovery of land may be brought, and will afford facilities for settling doubtful or disputed titles; a Bill for amending the Insolvent Law; and a Bill for increasing the number of Judges, and enlarging the sphere of duties of the Supreme Court, by providing for the establishment of Circuit Courts. In conclusion, and speaking for myself individually, I most sincerely

congratulate you on the enlarged powers of self-government conferred on the community which you represent. The personal satisfaction which I experience at thus meeting you on an occasion so auspicious as the opening of the first Parliament of South Australia wholly elected by the people, is much increased by the confidence with which I anticipate a no less prudent than energetic exercise of these extensive powers by the representatives of the people. 16. Yet, whilst relieved by the existing Constitution of much responsibility which till lately had attached to my office, I feel that a new and equally grave responsibility will arise, whenever with time, between the representative of the Sovereign and the people, it may become the duty of the former to give the fullest Constitutional development to the wishes of the country. That responsibility I do not shrink from, satisfied that a fearless and honest desire to act up to the liberal spirit of the Constitution will always ensure the support of a South Australian Parliament." This programme could scarcely be carried into effect in its entirety by the most practised Assembly; but it expressed the subjects on which legislation was urgently required. And the events showed that the first Parliament of South Australia, while it devoted nine months to satisfy the wants of legislation, passed no less than twenty public Acts in that time, many of them requiring clear knowledge of public business in matters affecting commerce, material progress, immigration,

management of the Crown lands, important law reforms, and finance. The financial year was changed from the calendar year ending in December of each year to the twelve months ending June 30th.

An Act to make provision for establishing a monthly mail communication between the province of South Australia and Great Britain struggled through more than one administration to an unsatisfactory conclusion on November 10th, 1857. On the 19th of the same month the Murray Duties Act disposed of that vexed question; railway extension was carried from Gawler to Kapunda; the electric telegraph system was improved and extended; and, finally, an inestimable boon was conferred on the owners of land by the passing of the Real Property Act, then known as Torrens' Act. But of this more hereafter. I have given the Governor's opening speech in full detail, as it affords a valuable statement of the financial condition of the colony at the time, and it also embraced the whole policy of the first Ministry as represented by the Chief Secretary, Mr. B. T. Finniss. The policy of a ministry is based on the views of the majority in the Legislature, and, therefore, when a statement is made in Parliament it may be said to shadow forth the opinions then in the ascendant. On this occasion the Chief Secretary lay under the disadvantage that the Ministry, individually, had neither been appointed by Parliament nor selected by him. They were the nominees of the Governor, and, perhaps, necessarily so

in the first inauguration of the new Constitution, as I have elsewhere hinted. The members of the Ministry were not new to office, whereas most of the members of the Lower House were called to their seats by constituencies who had no previous acquaintance with political questions, whilst they themselves were, for the most part, new men as legislators, and especially wanting in that experience which teaches men how to work together for great ends as indicated in the term party government. To carry out these views and this system successfully, individual members of the Legislature must merge personal views and motives and even local predilections and interests in general principles affecting the community at large. They must agree on questions of common interest and throw in their individual weight to serve the common cause of that party in the State whose views, in their opinion, are directed to the general welfare, ignoring, as secondary considerations, all others. In this way only can Parliamentary Government subserve the well-being of the whole community; and in this way only can a party majority direct the course of legislation by supporting a Ministry representing their common view. As I have said, the Assembly were, for the most part, untried men; yet, although untried in the practise of party government and in following certain leaders in whom they may have agreed to place confidence, there were among them many able men successful in mercantile and business transactions,

whose shrewdness made them clever debaters, and whose experience in their previous line of life had taught them to weigh and consider the advantages and disadvantages affecting their own interests in every speculative or commercial transaction in which they might engage, and, through the exercise of sound judgment, determine on which side the balance of advantage lay. Henceforth, as legislators for the common weal, they were called on to abandon the principle of egoism as an exclusive rule of conduct and to study the interests of the State, regarded as a large firm of which they were the directors and managers as well as *shareholders in common with every individual in the community*. In mercantile firms the object is to gain a profit and increase capital through the wants of the consumer at home and abroad; that is, the community and the foreign trader. In the legislation and administration of statesmen, the profit of the whole community is sought not in money value, or revenue, but in promoting increased production through the efforts of every able-bodied individual, and for the gain of every individual in proportion to their efforts to assist production—through the means of capital, physical energy, or intelligence. The aim of the statesman is to promote the material well-being of every individual in the State, be he rich or poor. The merchant is guided by the maxims of political economy which have been carefully considered and stated by Adam Smith in his immortal work called

“The Wealth of Nations.” According to him, sympathy and interest are the two great springs of human action. His theory allows every individual, in the effort after wealth or honor, to exert his powers to the utmost in order to surpass his competitors so long only as he does no injustice. John Stuart Mill considered that every man was free to do as he pleased as long as no one was injured thereby. There is coincidence in these views of great writers. But in the doctrine of “The Wealth of Nations” the axiom is completely asserted that every one in pursuing his own advantage at the same time furthurs the good of all. Leading men in the first House of Assembly openly advocated this view. Its fallacy is, I think, self-evident. The miser and the usurer, in pursuing his own interest, does not advance the general good—the amount of the national wealth is not thereby increased.

Political economy has hitherto done nothing towards promoting schemes for *the distribution of wealth*. Herein has been its weakness as a theory of human action; and modern writers, like Henry George, have pointed out this defect. Political economy in the past has occupied itself with the question, *how the greatest possible quantity of wealth is produced*; and not with *its distribution*, upon which the happiness and well-being of mankind are dependent. The commercial and industrial statistics of most European countries show, irrefutably, that an enormous development of power and wealth is taking place, while the circum-

stances of the labouring classes show no decided advance, and without the haste and greed of acquisition in the propertied classes being in the slightest degree moderated. I have alluded to egoism, or the rule of individual interest, as the aspect under which mercantile men govern their conduct in the pursuit of wealth, and I have pointed to it as the leading maxim in Adam Smith's theory of "The Wealth of Nations." It has been followed out persistently, and the results are apparent in the enormous increase in the development of power and of wealth, side by side with the increase of poverty and destitution amongst the laboring poor, so graphically described by Henry George. The remedy must lie in laws which favor the *distribution of wealth* by promoting the principle of "community" (I do not mean communism, but rather co-operation), not as opposed to egoism, but as taken in connection with *egoism compounded of sympathy*. This is the only method by which the comforts of the laboring classes can be effected. Ethical questions have hitherto been separated from the question of the material advancement of the community. Regard has been had, not to the form of the relations of possession, but to the quantity and the commercial value of wealth. The rule of action with the legislator should be the bridling of egoism, the development of human sympathy, and the predominance of common aims. This, in a word, is natural moral progress — the union of material and intellectual progress, with

moral and ethical ends, which constitutes the highest civilisation.

I have been thus minute in describing the class of men who were elected to the House of Assembly, and in asserting certain maxims which should be followed in legislation, in order to enable the reader of this volume to determine for himself the nature of Responsible Government as established by the Constitution Act of South Australia, and to understand its working in a community to whom the boon of self-government was only recently conceded by the Imperial Government. The Legislative Council was composed of men who possessed, as well as represented, a large stake in the wealth of the colony, who had undergone a certain amount of training in legislation during the proceedings which had followed on the introduction of Representative Government, and who had also contributed to shape the form which the new Constitution assumed. The members of the first Legislative Council were for the most part among the wealthiest of the colonists, and had been largely engaged in speculative and commercial pursuits. On the inauguration of a Parliament composed of two elective Chambers, they had, so to say, taken refuge in the Upper House, where they felt secure in a long continuance of power, and safe in their ability to resist any encroachments on property which might be originated in a larger and more Democratic assembly. They were eminently Conservative, and the tendency

of their political activity was to retard large public works and undertakings, which would require loans of foreign capital for their construction. This Conservative tendency was illustrated by the Honorable Mr. Baker in the highest degree. In the debate on the Address in Reply to the Governor's Speech, he indicated to a great extent the policy that would be acceptable to him. In *Hansard* he is reported to have said—"He would caution the Ministry against being too favorably impressed with the railway scheme, merely because there was a large sum in the Treasury. It was but fair that some part of the land fund should be pledged for immigration purposes. Let that be done, and let the necessary cost of Government be deducted, and they might then see how much would be left for railroads." "Much might be done for various parts of the colony by tramroads economically constructed, which at some future time might be converted into railroads." In short, Mr. Baker was the type of Conservatism. He objected to loans for large public works. (*See reports of his speech.*) He denounced railroads, advocated tramways, immigration, and free distillation; and on the subject of education he objected to State aid, on the ground that "he knew the feeling of the country was against sectarian education, and he did not see how, when State aid had been taken away—finally, he presumed—from religion, it could be accorded to sectarian education, or in other words, to teaching children doctrines which they did

not understand, when it was not thought fit to aid in teaching them to adults." The Honorable Mr. Baker has passed away to his long home, and in singling him out as the true type of the Conservative in South Australia, I am alluding to a man of splendid abilities, and of sufficient practical power to lead the debates in the Legislature, as he undoubtedly always did. In commercial questions he was an authority, as well as in pastoral and agricultural pursuits, to which he owed the wealthy position he subsequently attained. He was always in opposition under Crown Government, and carried the same principles with him on his election to the first Legislative Council under the new Parliamentary system. His views, however, were not dominant in South Australia, or in the House of Assembly, where the Democratic element, long forming in the country, prevailed. He undoubtedly led the Upper House, both through ability and through the participation of its members as a body in the Conservative principles which he advocated. But with all these advantages he failed in his political aspirations, since he could not succeed through the opposition of the Democratic party in the Assembly in holding office as Chief Secretary in a Ministry formed shortly after the resignation of the first Ministry, nor at any time afterwards. More than half of the elective members who had taken part in the deliberations in the old form of Government before the inauguration of the new Constitution had obtained seats in the new Legis-

lative Council; and as they were of the Conservative party, there were two distinct Houses of Parliament, representing two distinct classes of politicians. In the Lower House their weight would have been felt; but they would, in questions of finance and political privileges, most probably have formed the minority, controlled by a more popular majority. But entrenched as one compact body in the Upper House, their power was irresistible; and they could, had they chosen, have stayed all loans for reproductive works and all additional taxation by absolutely rejecting Bills for such purposes. As representing in reality and by election the propertied class, they passed all measures tending to the improvement of property; and, when the day of reckoning came, they refused their assent to the legislative measures by which an extensive loan system could alone be justified and sustained. In a word, they brought about a reform of their own body which if resisted would have paved the way to more serious results. They have even consented in late times to bear the chief burden of taxation by passing an Act to establish direct property taxation in which they have yielded to the democratic sentiment prevailing throughout the country, and acknowledged the maxim of the sovereignty of the people, so distasteful to the ultra-Conservative.

I may now return to the more immediate purpose of this chapter which has relation to the proceedings of Parliament as a whole, and the mode in which Respon-

sible Government operated in producing results immediately beneficial to the country. It must be evident to anyone who consults the records and published debates in both Houses of Parliament that the first Ministry, composed, with one exception, of the old official nominees of the Crown, was not popular in the Legislature. Mr. Finnis, Mr. Hanson, Mr. Torrens, and Mr. Charles Bonny represented the Ministry in the House of Assembly, and the Honorable Mr. Davenport in the Legislative Council. As a whole the Ministry had not earned their position by the formation of any party in the Legislature whose views they represented. The members of Parliament called together in first session, on April 22nd, had held no meetings to ascertain their own general views and proffer support to the present Ministry or any other. In times past the Ministry had not formed a portion of the elective members, whose views and freedom of debate were secure in the hands of free constituencies and a free Parliament; on the contrary, they had been nominees of the Crown, bound by their tenure of office to propose in the Legislature, and support by arguments and votes, the policy of the Governor and of Downing-street. When confronted with the elected members under the partial representative system lately introduced, they but formed part of a transition Government, gradually passing into the hands of the people themselves, and were yet restrained by the absolute power of the Governor from expressing their own free

sentiments in the free language of debate which a Constitutional Legislature permits and even enjoins. In this respect their powers of usefulness were neutralised by the reticence and restraint imposed upon their knowledge and acquirements. They were in a different position from the advocate in a court of law, since he is responsible to no one for the course he takes and the arguments he uses in defence of his client, whereas the words of the official nominees of the Crown were jealously watched and reported to the Governor. This system of restraint was carried into effect even after the introduction of a partial representative form of Legislature. This forcing of results practised in absolute Governments is understood in such cases, and leads to the blind adulation of power, when circumstances render resistance dangerous or impossible, as in infant communities, but frequently gives rise to reckless opposition to useful measures and to the lowering in public estimation of the system of nomineeism. This feeling in South Australia prevailed during the rule of its earliest Governors and became intensified in the year 1853. The effect of this sentiment was apparent in the constitution of the first Ministry. It soon found expression in words, and in the debate on the Address Mr. Waterhouse said:—“With regard to the abolition of Boards, he would be happy to see that effected when they had a really Responsible Government, and not, as at present, the same old officers who formed the irresponsible Govern-

ment." The programme of the Ministry, based on the requirements of the community and on the wishes of the elective members, as far as these could be gathered from debates in the former Legislature, was set forth in the Governor's Speech on the opening of Parliament, no other opportunity having been afforded to the Ministry of declaring their policy since Parliament assembled on April 22nd, and the writs were returned on March 25th. This was another disadvantage under which Mr. Finnis as Chief Secretary labored. It was soon evident that no parties had been formed in the House of Assembly either to support or oppose the Government. There were many leaders of opposition having each a small party of followers. But there was no concert among these sections to work on any particular plan. Each leader had his own views. Under such circumstances the Ministry were met by a sort of guerilla warfare, each section arguing independently without apparent regard to consequences. Before the debates on the replies to the Governor's speech had been brought to a close the Chief Secretary laid on the table a Bill to provide for a monthly steam communication with Great Britain, by enabling South Australia to become a party to the existing contract with the other colonies. This was read a first time, and the second reading made an order of the day for the following Tuesday. It will be recollected that the Treasurer, on a visit to Melbourne, had pledged the Ministry to this step as the only condition on which

the Melbourne Government would permit the transit of the South Australian mails by the contract steamers, and this pledge was now sought to be redeemed by the Chief Secretary. But a Bill, however—the Tonnage Duties Repeal Bill—had been previously laid on the table by the Treasurer, Mr. Torrens, on April 22nd, the very day of the meeting of the Assembly. It was read a first time and ordered to be read a second time on April 28th. On April 30th the Treasurer moved the second reading of this Bill for the “repeal of tonnage dues and to authorise the leasing of wharf frontages at the North-parade, Port Adelaide.” The motion was carried without a division, and the Bill went into committee. After passing in all its stages in the Assembly it was forwarded in the usual course to the Legislative Council, and by them returned amended, on June 9th, to the House of Assembly. A question of privilege now arose, which led to long discussions in both Houses, which I shall consider in a separate chapter, as it involved the construction put upon the Constitution Act with respect to Money Bills, and resulted in a collision between the two Houses. For the present I shall only refer to the resolution passed unanimously in the Assembly, and communicated by message to the Legislative Council, as follows:—“That the Bill passed by the House entitled, ‘An Act to repeal the tonnage duties on shipping, and to authorise the leasing of the wharf frontage at Port Adelaide known as the North-parade;’

which was forwarded on May 12th last to the Legislative Council for their concurrence, having been returned to this House with amendments modifying the Bill in an essential principle, this House requests the Legislative Council to reconsider the Bill, inasmuch as it is a breach of privilege for the Legislative Council to modify any Money Bill passed by this House" (see parliamentary debates June 10th, 1857, p. 250). Now this question of privilege was said, especially in the Legislative Council, to have been raised by the Ministry of the day, with the object of provoking a collision between the two Houses. One member of the Council who took the lead in opposing the Tonnage Duties Repeal Bill, did not scruple to say that he really fancied the Government seemed to desire a collision between the two Houses, but this very member (Mr. Baker), in a previous debate on June 2nd, had expressed the belief that "he thought it better to make a stand upon the first Bill that was sent up to them, for if they passed one in an objectionable form the subsequent difficulty would be increased." If then, in the opinion of the honorable member quoted, the Government took their stand on the first breach of privilege that affected the powers of the two Houses, were they not acting, according to his showing, in a judicious manner? The same member, in the debate on June 17th, 1857, asserted he had a right to assume that the message of the Assembly returning the Tonnage Duties Bill to the Legislative

Council was the premeditated act of the Ministry, because it was the only question of policy in which the Government had acted unanimously. The Bill, however, never proceeded farther, and does not appear on the statute book of that year. As I have alluded to the question of privilege it is fit that I should mention that in the Constitution Act there are two clauses which relate to the standing rules and orders and privilege, the 27th and the 35th. The first has reference more immediately to the standing orders, and it provides for their consideration at the first sitting of each House respectively. The second, the 35th, relates more especially to the passing of an Act to define the privileges, immunities, and powers to be exercised by the two Houses respectively. In pursuance of the 27th clause a resolution was proposed by Mr. Blyth, and agreed to in the Assembly on April 22nd, that the standing orders of the late Council be in force until new ones be decided upon. In the Legislative Council a similar resolution was proposed on April 28th; the Honorable Mr. Davenport at the same time made the remark that new standing orders would be necessary, as those in use by the late Council would not meet the requirements of the House as at present constituted. A committee was therefore appointed to frame new standing orders. No steps were taken in either House to prepare a Bill under the 35th clause of the Constitution Act to define the powers and privileges of the Houses of Parliament;

there were other measures of more pressing importance to be first considered.

It has been stated that the Governor's opening speech embodied the policy of the Ministry owing to the fact that the Parliament, not being in session at the time of their appointment, no earlier opportunity had presented itself for making known to the Legislature the measures which they proposed to introduce for the consideration of members. Their tenure of office, as will be seen, terminated on August 12th, and reference to the Parliamentary Records shows that not one of the numerous measures proposed by them became law before November 10th, 1857, although most of them were adopted by Parliament before the prorogation on January 27th, 1858. Thus the following Acts were passed during the first session of the first Parliament, viz.:—1. An Act for establishing a monthly mail communication between the province of South Australia and Great Britain. 2. An Act to regulate the collection and distribution of duties upon goods intended for consumption in New South Wales and Victoria carried by way of the River Murray. 3. An Act to make provision for levying a charge on Chinese arriving in South Australia. 4. An Act to authorise the appointment of an Emigration Agent, and to encourage and regulate immigration into the province of South Australia. 5. An Act to authorise the raising of a further sum of £73,000 for the completion of the Adelaide and Gawler Town Railway, &c. 6. An Act to repeal

part of an Act to provide for the water supply and drainage of the City of Adelaide, and to alter the sum of money by the said Act directed to be set apart in every year. 7. An Act to repeal certain Acts relating to the election of members to serve in the Parliament of South Australia, and to provide for the election of such members. 8. An Act to amend and consolidate the laws relating to insolvent debtors. 9. An Act to simplify the laws relating to the transfer and encumbrance of freehold and other interest in land. On the termination of the session the Speaker reported that twenty public Bills, initiated in the Assembly, had passed both Houses of Parliament.

Having referred to two subjects which are in direct connection with the history of Responsible Government, namely, the resignation of the Ministry and the privilege question between the two Houses, it has been necessary to introduce the foregoing statement to enable the reader to have before him, without reference to public documents, such information as may enable him to form conclusions on the working of a system begun in 1856 and continued to the present day. Not having it in my power to state, except problematically, the cause of the disruption of the first Ministry, I have felt it the more necessary to place all the facts I could collect before the reader without comment, trusting that they may be found useful in tracing through later times the working of self-government in a province numbering 320,000 inhabitants who can now appeal to

the experience of thirty years' duration. The Ministry of Mr. Finnis found it necessary to tender their resignation to the Governor within less than four months of Parliamentary experience, since they were left in a minority on several occasions when they attempted to carry on important public business. There was no cordiality in their relations with the Governor, to encourage them to proceed in their endeavors to overcome Parliamentary opposition, which was most decided in the Upper House. In illustration of these remarks I cannot omit to state that, as no time or opportunity had been afforded for the preparation of Standing Orders adapted to the new circumstances of the division of the Legislature into two separate Houses, the House of Assembly adopted the Standing Orders of the old Council. But events soon showed their insufficiency to govern the relations between the two Houses. The Chief Secretary, therefore, on July 29th took occasion to propose some alterations, which *he expressly stated "were merely preceding a general revision which he said would be made at an early day."* (See P. Debates, p. 446.) As the Governor-in-Chief Sir Richard MacDonnell took a lively interest in all Parliamentary proceedings, His Excellency sent the following memorandum to the Chief Secretary:—"Mr. Finnis—I perceive from the public journals and the votes and proceedings of the House of Assembly, that both branches of the Legislature have been engaged in forming Standing Orders, and that you have been

proposing various alterations in those orders, &c. It is desirable that I should understand whether these Standing Orders are those contemplated by the 27th section of the Constitution Act, and which are 'to be laid before the Governor, and, being by him approved, shall become binding and of force.' As the Standing Orders in question will regulate, amongst other matters, the presentation of Bills to me for Her Majesty's assent, and in various particulars may concern the discharge of duties appertaining to my office; and as more especially the plain law of the colony is that they be laid before the Governor for his approval, I wish to be informed why that provision has not yet been complied with—whether because the Standing Orders are not completely drafted, or for any other cause. (Signed) R. M'D. August 4th."

In reply to this memorandum the Chief Secretary, after consulting his colleagues, sent the following minute:—"The memorandum of the Governor-in-Chief is one which can only be officially answered by the House of Assembly, which prepares its own standing orders. But as a member of the House I am enabled to inform the Governor-in-Chief that the standing orders now governing the proceedings of the House have only been provisionally adopted by the House pending the grave consideration which they will require before being presented to the Governor for approval. This, I understand, is the reason that would be given by the House of Assembly.—(Signed) B. T.

FINNISS, Chief Secretary, August 5th, 1857." Again, the following motion was moved and agreed to in the Legislative Council on August 4th, 1857, and forwarded to the Governor:—"That an address be presented to His Excellency the Governor-in-Chief requesting him to cause to be obtained and laid upon the table of this Council the written opinion of the Attorney-General and Crown Solicitor, with the reasons and ground for their opinion as to the extent or limit of the powers of this Council under 'the Constitution Act' to alter, vary, or modify any money Bill which shall be originated in and passed by the House of Assembly, and transmitted by that House to this Council for its concurrence; and as to whether except as regards the first introduction of the Bills mentioned in the proviso, in section 1 of that Act, the powers of this Council in reference to those Bills are not coextensive with the powers of the House of Assembly, or whether there is any and what difference, and how such difference, if any, is created. And also as to the proper definition of the term 'Money Bill,' within the meaning of the Constitution Act, describing what particular Bills are Money Bills, and which, as such, require to be originated in the House of Assembly; and particularly whether the Bill 'Tonnage Duties Bill' was a Money Bill or not."

This address being referred to the Ministry and considered by them, the Governor, on August 10th, was advised to reply. That His Excellency has been

advised that it would be unconstitutional for His Excellency, as representing the Crown, to interfere in any question of privilege which has arisen, or may arise, between the two branches of the Legislature, and that it would be a breach of the privileges of Parliament for the law officers of the Crown to give an opinion upon such a question, unless for the purpose of guiding the decision of the Government or of the Governor in any matter in which the exercise of the powers of either would be regulated by this opinion. It can scarcely excite surprise or comment that in view of the circumstances connected with the action of the Governor at different times, and of the want of support afforded them in both Houses of Parliament, the Chief Secretary felt it his duty to tender his resignation to the Governor, which he did in writing in the following terms :—

“ August 10th, 1857.

“ The Ministry having maturely considered their position in Parliament, and especially in the House of Assembly, where they were lately defeated in three important Bills, viz., the Electoral Law Bill, the Postal Bill, and the Main Roads Bill—find that they cannot command the support of a majority of the members of Parliament, and have therefore decided to tender their resignation of the appointments respectively held by them in the Ministry.

(Signed) “ B. T. FINNISS, Chief Secretary.

“ His Excellency Sir R. G. MacDonnell, C.B.,

“ Governor-in-Chief, &c., &c., &c.”

A Cabinet meeting had been held at the residence of the Attorney-General, Mr. Hanson, on August 7th (Friday), all the members of the Ministry being

present, when the position of the Ministry was considered on their defeat in the House of Assembly on the third reading of the Postal Bill, and on the second reading of the Road Bill, when it was resolved to call a meeting of their supporters on Tuesday before meeting of Council. Another meeting of the Ministry was held the next day (August 8th) to reconsider the decision of the previous evening. The course of action being reviewed and confirmed at this meeting, the Chief Secretary addressed notes to all the members who had generally supported the Government in the House of Assembly, requesting them to meet him at his office on the following Tuesday (the 11th instant) as he wished to make a communication of importance. On so important a matter, I made notes at the time, from which I now quote. Twenty members of the House of Assembly attended this meeting, at which the five Ministers were all present, and when I represented the state of affairs, the feeling was expressed that in tendering my resignation I had done right. The Governor met me that morning and said he was going to write to the Secretary of State saying that the Postal Bill was thrown out, and that he had hopes yet of getting better terms for South Australia. I told him that the Postal Bill was not yet lost, and that I should again move, whether in or out of office. The Governor then said "the Upper House would not

pass it," to which I replied to the effect that "we should not mind that." *

On Monday, the 10th, I sent some recommendations for appointments of Justices of the Peace to the Clerk of the Executive Council. In the evening, about five o'clock, I tendered to the Governor my resignation with that of the Ministry. I stated that of course I should continue to carry on all necessary business until my successor was appointed. The Governor said he had received the written paper which I handed in, but would consider it. I mentioned Mr. G. M. Waterhouse as the person who should advise the Governor in the formation of a new Ministry. He wanted a meeting of Executive Council the next morning. I said I was engaged. On Tuesday, the 11th, the Governor sent for me to his office a few minutes before the meeting of members of the Assembly in my office. He then said that he had not accepted my resignation; that I must continue to act as his adviser; that I could not divest myself of my functions as an Executive Councillor. I said I could not advise him in Executive Council or elsewhere, unless, indeed, he failed to make a Government, when, if I were requested to form a Government, I should again advise him. After the meeting of members, which broke up at a quarter before one o'clock, and whilst in my office with all other

* The legitimate inference is that the Governor was in communication with the members, and that he was playing them off against his Ministry to get rid of them.

Ministers, a message was given me by Mr. Under-Secretary Richardson, that the Governor wished to see us after the Assembly had adjourned. We were then on our legs preparing to proceed to the House to make the statement of resignation. I said, "Very well, I will attend." Hanson (the Attorney-General) then said to me: "The Governor wants a meeting of Executive Council, and Lyons is waiting. What message will you send?" I then left my office and spoke to Lyons in the hearing of Hanson and others who were almost touching me, that "we could not attend His Excellency in Executive Council because it would be indelicate to advise him in any official matter." This answer had been previously agreed upon by the Ministry whilst Lyons was waiting. On the 12th I received the Governor's postal minute in my office when I attended to dispose of ordinary business and signed accounts. In the evening of the 12th I met the Honorable Mr. Baker, and saw the Governor going to the offices. On way to the offices, about five o'clock, Mr. Richardson met me and said there was a letter for me with Milton (the Government office-keeper). I opened it, and it was the absolute acceptance of our resignation. These notes were made on August 14th, at my own residence. This statement is, in one particular at least, borne out by a report of the Parliamentary Debates, wherein it is reported that (at a meeting of the Assembly, on Tuesday, August 18th) it appears that Mr. Finmiss, in his place, said that the late

Ministry had offered, after their resignations had been accepted, to act until a new Ministry was formed, but that the offer had been declined. This occurred after Mr. Waterhouse had informed the House of Assembly, in a motion for another week's adjournment, that "His Excellency had requested him to state that such a course was rendered necessary in order to form a fresh Ministry, his (Mr. Waterhouse's) efforts not having been successful." On Tuesday, August 11th, Mr. Finniss informed the House of Assembly "that he for his part, and on the part of his colleagues, had tendered their resignation to His Excellency on the previous evening. Their resignations had been received, but they were not yet accepted. In the meantime he would state to the House that they were no longer an acting Ministry." He then proceeded to give the reasons for their resignation, saying that "the motives of the Ministry in doing so must be evident—the want of confidence on the part of the House being the most prominent." In the debate which followed, Mr. Hughes "thought the Ministry could not expect continued confidence from the House when they differed among themselves on so many important questions." Mr. Dutton said "they had now come to a difficulty which they must have all foreseen, and there was no means of meeting that difficulty but by the resignation of the Ministers."

In the Legislative Council on August 18th the Honorable Mr. Morphett asked the Honorable Mr.

Baker if there was any truth in the current report that he had been sent for by His Excellency the Governor to form a Ministry. The Honorable Mr. Baker (see reports of Parliamentary Debates, p. 486) "said he would give what information he could. He had had the honor of being sent for, and having received His Excellency's commands to form a Ministry, which took place yesterday (August 17th), he had proceeded to do so. Negotiations were now in progress for doing so. He might add one more remark to this statement and that was, that the chief objects he had in view were to adjust the difference between the two Houses and to take further steps to amend the 'Electoral Law' so that, if *circumstances should render a dissolution necessary, the country might not be left in that unjust position which would result from so great a disfranchisement as would occur under the existing law.* With regard to the question of privilege it would be very difficult—indeed he might say it *would be impossible—for any Ministry to be formed that would stand whilst that question was still unsettled.*" The Honorable Mr. Morphett again addressed the Council:—"Seeing that he (Mr. Baker) had stated that he had been requested by His Excellency to form a Ministry, he might be in a position to explain why the country was allowed to stand in its present anomalous position, having no Ministry at all. He believed that the constitutional form was that when a Ministry tendered their resignation it was not

accepted, or that they held office until their successors were appointed. In this instance it appeared that the Ministry sent in their resignation, then a short time elapsed and then there was a *Gazette* notice to the effect that the resignation had been accepted. Yet there was no new Ministry, and, consequently, the country was left without any Constitutional Government. That was a most anomalous and unconstitutional position for the country to be in, and he would be glad if the honorable gentleman would explain *why His Excellency was advised to gazette the notice of resignation before a new Ministry was formed.*" Mr. Baker said, in continuation of his previous statement, that he took upon himself to point that out to His Excellency *at their first interview, when he asked His Excellency if the course adopted was the usual one,* and expressed his fear that some inconvenience would arise. His Excellency then gave him an explanation, and seeing that no doubt the question would arise *had also given him a minute of which he (Mr. Baker) would place the House in possession.* It would appear that the resignations were sent and received; and at that time His Excellency thought it would be best for the Ministry to hold office until a new one was appointed. Shortly afterwards *some business required the attendance of the Ministry at the Council Board, and His Excellency thinking that they were still bound to attend Him as members of the Government sent for them; but they refused to come, and then His*

Excellency thought there was nothing else to be done but to gazette the resignation. His Excellency thought they were bound to assist him whilst they were officers of the Government; and when *they ceased to do so he gazetted their resignations.* The minute of the Governor was then read. It was as follows:—(Before reciting the minute I wish to call attention to the passages in Mr. Baker's speech which I have italicised as I may have to allude to important points in them in a subsequent argument.) “Mr. Finmiss—Having received from the clerk of the Executive Council yesterday certain previously adopted recommendations of the Ministry to some appointments which required the sanction of the Governor in Executive Council, and being also desirous that the current routine business of the colony should not be interrupted, I directed the clerk to summon the members of the Executive Council to my presence. He soon afterwards informed me that ministers had verbally declined obeying my summons on the ground of it being indelicate in them having tendered their resignations to meet in Executive Council and offer any advice to the Governor. So long as the ministers hold office they are *ex officio* Executive Councillors, and cannot strip themselves of the duty of obeying the Governor's summons to attend meetings of that body, though circumstances might make it as indelicate in them to offer, as for the Governor to require advice on matters involving grave considerations of general policy. I had wished the

holders of ministerial office to remain in office till the appointment of their successors or the reconstruction of your own Ministry ; nevertheless a refusal so direct, even in formal matters, in a capacity made by law inseparable from the tenure of office, convinces me that further hesitation to accept the tendered resignation of yourself and your colleagues would establish a pernicious precedent opposed to constitutional practice in England,* and subversive of a positive enactment here. I am, therefore, compelled to accept at once the resignation of yourself and your colleagues. I cannot do so without assuring you that although thus forced to terminate our long official connections, I am fully sensible of the zeal, integrity, and ability to promote the public interests which have been so continuously manifested by yourself and your colleagues during that period, and I beg you will convey this assurance to them. (Signed) RICHARD GRAVES MACDONNELL, Governor. August 12th, 1857."

I have placed these two statements before the reader ; one of them conveyed to the Legislative Council officially, the other founded on private notes taken by me after the interval of a day from the occurrences to which they relate. The difference

* For latest constitutional practice in England see the resignation of Mr. Gladstone—a parallel case—on June 25th, 1885. Lord Salisbury stated "that Mr. Gladstone having refused to reconsider his decision to resign the Queen had appealed to him (Lord Salisbury), and that he had accepted office." Sir R. G. MacDonnell did not understand Constitutional Government.

between them is this: that the Governor gives the tone of an act of disobedience to the objection of the Ministry to obey his verbal summons to attend him in Executive Council, and he assumes that by that act the Ministry had evinced their determination to cease to act in the administration of the affairs of their several departments. That no intention or action of the kind could be imputed to them is evident from the fact that the Governor's letter accepting the resignation of the Ministry was given to the Chief Secretary on the evening of August 12th, on his way from his office, which he (Mr. Finnis) had attended to transact official business after the letter tendering his resignation had been received by the Governor, and after he had conveyed to the Governor his assurance that the business of the administration would be attended to by the Ministry until their successors were appointed. This assurance was stated in the Assembly on August 18th by the Chief Secretary to have been given when he said, speaking immediately after the late Attorney-General (Mr. Hanson), "that the late Ministry had offered, after their resignations had been accepted, to act until a new Ministry was formed, but that the offer had been declined." (*See report of Parliamentary Debates*, p. 490.) I quote the report as it appears in print, although *perhaps it may be incorrect* in substituting the word *accepted* for *received*. The same debate contains the speech of Mr. G. M. Waterhouse, who stated that on the previous Wednes-

day (12th) he had received His Excellency's commands to form a fresh Ministry, in which he had been unsuccessful. The inference then is, that the Governor had received Mr. Finniss's assurance that he would with his colleagues continue to carry on the administration, but resenting the declining by Mr. Finniss to attend to business in the Executive Council, on August 11th His Excellency officially announced his acceptance of the resignation of Mr. Finniss's Ministry, and sent for Mr. Waterhouse as his chief adviser, *in accordance with the last and only advice which it was constitutional for Mr. Finniss to offer.* The Crown Governor, accustomed to implicit obedience from all his officers, here seems to have spoken out. Mr. Samuel Davenport, now Sir Samuel Davenport, with that straightforward clearness of conception which at all times regulated his judgment in political affairs, who had filled the office of Commissioner of Public Works in Mr. Finniss's Ministry, seems to have given the proper solution of the question, when in his place in the Legislative Council on August 18th, in reply to the Honorable Mr. Baker, who was then the head of a fresh Ministry, he said—"Wrong or not wrong, the impression on his mind which led him to decline attending (a meeting of the Executive Council) was, that as he had with the other Ministers *constitutionally resigned*, *he considered he was put out of position to give responsible advice to His Excellency.* His idea of the meaning of our present form of Government was that it

should be carried on by responsible Ministers only, and when he (Mr. Davenport) ceased to be one of those Ministers he thought he was incapable of tendering advice which he was not any longer responsible for. He felt bound to make this explanation, and he would add that when the resignations were tendered *it was stated distinctly that the Ministers were anxious to carry on the mere formal duties of Government until His Excellency had appointed another Ministry.*" For the head of the State under Constitutional Government, such as now prevails in South Australia and in England, to endeavor to maintain and assert that Ministers cannot by tendering their resignations strip themselves of the duty of obeying the Governor's summons *to attend meetings of Executive Council, in which they claim the right to sit and direct the action of the Government, as ex-officio Executive Councillors, under the declared law of the Constitution Act,* is a position which I believe would not be assumed by the Sovereign of England on occasion of change of Ministers. The object of the meeting of Executive Council would require to be explained and fully understood, since it has been expressly asserted in the House of Commons that the last advice which a retiring Minister of State is competent to give to the Sovereign is to name the successor whom he recommends to fill his place of Constitutional Adviser. These are the maxims which I have gathered from a perusal of the Constitutional History of England, and from the debates in

modern Parliaments. And if I have misinterpreted the records of English history, I can confidently assert that Sir Robert Peel, though *sent for* by Her Majesty, felt that he would be supported by the country when he declined to carry on the Government except on conditions that were eminently distasteful to Her Majesty, although Her Majesty's strong good sense and constitutional education made her acquiesce in his proposals. But Sir Richard MacDonnell had not altogether at this time fully embraced the rôle of a Constitutional Governor. How he subsequently took his stand under the working of Responsible Government I am unable to throw any light. That he was at the head of the Conservative party in South Australia during my administration; that the Legislative Council shared his conservative views is apparent; and that in the great privilege question respecting the interference of the Legislative Council his sympathies were with the Conservative party, and, consequently, with the Upper Chamber, there can be no doubt in the light of events. With a Governor who was in constant opposition to the Ministry; a Legislative Council where the dominant party, led by the Honorable Mr. Baker, withheld their support to the Government measures as distinctly avowed during the debates on the address in reply to the Governor's opening speech. With a divided Ministry and a House of Assembly split into sections—who desired for their own order, the mercantile body, to attain the direction of public

affairs which had been wrested from the Crown through Responsible Government—there was little prospect that a Government, composed of the old nominee elements under a changed name, could long hold the reins of power. Mr. Finnis's Ministry therefore virtually retired from office on August 10th, 1857, although the statistical "Record of the Legislature, No. 62," brought up to July 29th, 1884, assigns it an existence up to August 21st, apparently that the colony should not be without a Ministry until the Honorable Mr. Baker assumed office as Chief Secretary in the Upper House on that day. His new Ministry comprised:—The Honorable Edward C. Gwynne, Attorney-General; the Honorable John Hart, Treasurer; the Honorable William Milne, Commissioner of Crown Lands and Immigration; the Honorable Arthur Blyth, Commissioner of Public Works; and the Honorable John T. Bagot, Solicitor-General. This Ministry took office on August 21st and lasted till September 1st of the same year. The two principle members had seats in the Legislative Council, and other four—for it now illegally consisted of six members—belonged to the Assembly. Their declared object in taking office was to settle the question of privilege; that is, to avoid the collision between the two Houses arising out of the question of their respective powers in respect of Money Bills. It was manifestly impossible such a combination could command a majority in the Assembly. The Liberal and Democratic party were

largely in the ascendant in the latter House, and were highly resentful of the course taken in the Legislative Council by the Conservatives, headed by Mr. Baker. The Conservative members there to a man, with the exception of the Honorable Mr. Davenport, supported the asserted power of the Council to amend and alter Money Bills, which, if granted, would deprive the people's House, as they were called, of the control of the purse. And there was another point which the Assembly resented as a breach of the Constitution—that was, the addition to the strength of the Ministry and to the members of the Executive Council by the appointment of a sixth member to be called Solicitor-General, in the person of Mr. Bagot. The Constitution Act, in its 32nd clause, has provided for the Government of the colony by a Ministry of five persons, who were made *ex officio* members of the Executive Council; and without their advice and consent no appointments in departments could be made and no expenditure incurred. To increase the members of the Ministry was therefore beyond the power of the Government, and it was an equally unwarrantable exercise of prerogative for the Governor, even with the consent of his Ministry, to increase the members of the Executive Council by the addition of irresponsible persons who might enable him to act in opposition to his constitutional advisers and to the determinations of Parliament. Besides, how could any Ministry, having its strength in the Legislative Council,

hope or attempt to settle the difference between the two Houses as to their relative powers in respect of the power of the purse? A question on which no settlement could be made without a compromise on the part of the Assembly, which they could not listen to without admitting a doubt as to their own power. The Ministry of the Honorable Mr. Baker fell by a vote of censure moved and carried at a meeting of the Assembly on August 26th, by Mr. Torrens, the late Treasurer. The resignation of Mr. Baker's Ministry followed the result of the division, which in a House of thirty-one members, exclusive of the Speaker, gave Mr. Torrens a majority of seventeen members. The only names found on the side of the Ministry besides their own members were Mr. Babbage, Mr. Bonney, and Mr. Hay.

The new Ministry were gazetted on September 1st. They consisted of the Honorable R. R. Torrens, Chief Secretary; Honorable Richard B. Andrews, Attorney-General; Honorable T. B. Hughes, Treasurer; Honorable Marshall MacDermott, Commissioner of Crown Lands and Immigration; and the Honorable Samuel Davenport, Commissioner of Public Works, in the Legislative Council. This Ministry, too, was soon doomed. It expired on September 30th, 1857, having held together just one month. Mr. Torrens was by no means a popular member of Parliament; his Conservative tendencies were well known. Fluent of speech, as his countrymen when educated usually are,

he yet made enemies among those who voted on the side of the first Ministry by personal allusions; and he imbittered his opponents by the cutting sarcasm which he unsparingly made use of. Although an eloquent speaker when roused to action, he wounded rather than persuaded, preferring invective as a weapon of attack to logical reasoning, for which he seldom exhibited much capacity. He probably owed his position in the House to the expectation that as Chief Secretary he would give greater effect to the measure which he had succeeded in passing through several stages whilst Treasurer in Mr. Finniss's Ministry—an Act known as the Real Property Act—sometimes called Torrens's Act. The principle of this measure was so warmly supported in the several constituencies that no candidate, however otherwise popular, would have had much chance of being elected to the Assembly unless he declared his acceptance of the principle of that Act: nor would any ministry, however able and strong in general support, have maintained its existence if the members had declared decidedly against the reform in the law understood to be the leading feature of that measure. The principle which Mr. Torrens contended for had been first taken up in the British Parliament. An Act known as Lord Westbury's Act became law, and it was a great step in advance of the then existing condition affecting the transfer of real property. But it was found that the question was so complicated by the nature of the titles

which must be dealt with that in England any great reform in the mode of transferring land had not made much progress even so late as the year 1874. In the House of Lords in 1875 a Land Titles and Transfer Bill was again discussed, when Lord Selborne took an active part in that Bill. On this occasion he stated "that the practice had been, in advocating compulsory registration, to put before the Legislature the facilities which existed for the transfer of stocks and ships, which were compulsory, and so was the registration of deeds in which the registration of deeds had been directed by the Legislature with a view of getting rid of the system of conveyancing." There were no such complications in South Australia, as the titles in the first instance consisted of direct and indefeasible grants from the Crown. Before taking steps to introduce his Bill, Mr. Torrens placed in the hands of his colleagues, the members of the Finnis Ministry, a copy of the report of a Parliamentary committee, in which the question of the transfer of land under a new system was carefully explained. The Attorney-General (the Hon. Mr. Hanson) did not favor the introduction of a Bill to give effect to Mr. Torrens's views. It was a work of considerable labor, and would tax the powers of the most influential leader of the Bar to the utmost. On this ground alone he might have declined the task. But its success would be problematical, and it would disturb the system of conveyancing to which he had been accustomed as an English lawyer. He declined

the responsibility of making such a Bill one of the measures of the Ministry of which he formed an important member. The Chief Secretary (Mr. Finnis) was content under the circumstances, rather than break up his Ministry, to leave it an open question, the success or failure of which would not affect the stability of the administration. But as Mr. Torrens was sanguine and enthusiastic, it was agreed amongst the Ministry to permit him to have the sole credit and responsibility of this important measure of law reform, the Ministry resolving to support him in passing it through Parliament as far as their knowledge of the subject permitted.

On Tuesday, June 2nd, 1857, Mr. Torrens's Bill first saw the light. On that day he gave notice in the House of Assembly of his intention to ask the leave of the House to introduce it. On Mr. Waterhouse calling attention to the fact that Mr. Torrens proposed to move for leave to introduce the Bill on a private day, the Chief Secretary said the Bill was not a Government Bill, but would be introduced on the same ground as a Bill by any other member on leave of the House. This step, no doubt, weakened the Ministry. It gave color to the charge of a division in the Cabinet, and it led to the action of the Treasurer in the House being on other questions more independent than was quite consistent with the cohesion of an organised administration. But this was one of the difficulties arising out of the choice of the Ministry having been suggested by the

Governor under circumstances that in a manner left Mr. Finniss no alternative. When the Constitution Act became law, and the expediency of at once nominating a Responsible Ministry was apparent, the elections to Parliament had not taken place, and consequently Mr. Finniss was limited in his choice of colleagues to those who were then already in power as members of the Executive Council, and who held their seats in the Legislature by nomination of the Crown. The fifth Minister, Mr. Samuel Davenport, had not at that time been elected to a seat in Parliament. The alternative course would have been to defer the nomination of a Ministry until the old Legislature had ceased to exist, which was not the case until February 2nd, 1857, after the issue of the writs for the election of members of Parliament. Still there was a complication in every view of the political situation, which was most readily reduced to its lowest terms by the course followed by Sir Richard MacDonnell, and acquiesced in by his Executive Council in October, 1856. The shadow of the old nomineeism was set up, darkened with the bitter recollections of the sins of Crown Government, to be dissipated on the first shock of party conflict, as soon as the able and ambitious among the mercantile class, who had played a waiting game in the contest for political power, saw that the arena was now open to the competition of energy and capital.

On Thursday, June 4th, Mr. Torrens moved for leave to bring in his Bill. He said, omitting the rhetorical

passages: "The preamble alleged that the existing law relating to the transfer of real property is complex and cumbrous in its nature, ruinously expensive in its working, uncertain and perplexing in its issues, and specially unsuited to the requirements of this community. He did not attempt to remedy the evils complained of by amendment of the existing law—that he believed to be impossible. He proposed to abolish a system immediately wrong in principle, and to substitute a method which, when explained to the House, would commend itself as consistent with common sense, perfectly feasible and effectual for all the purposes required. Whenever real estate is transferred, the history of the property has to be traced back to the original grant from the Crown, through all the intermediate hands, every mortgage deed, release, conveyance settlement must be produced and carefully examined to see that there are no outstanding equities affecting the title. This renders conveyancing a laborious and costly process; but if after the labor has been expended and the cost incurred, the fruits of it could be secured and held available for future occasions, we should not have so much to complain of. The grievance is that this labor and outlay have to be repeated again and again, each time the property is dealt with. The solicitor of an intending purchaser or mortgagee is not content to accept the opinion given after full enquiry by the solicitor of a recent purchaser, it may be only ten days before. He too must be

furnished with an abstract, and examine all documents for himself, and this process must be gone over and over again every time the property is dealt with. The first and leading principle of the measure which I introduce is therefore designed to cut off the very source of all costliness, insecurity, and litigation by abolishing altogether the system of retrospective titles and ordaining that as often as the fee-simple is transferred the existing title must be surrendered to the Crown, and a fresh grant from the Crown issued to the next proprietor. The principle event in importance prescribes that registration *per se* and alone shall give validity to transactions affecting land. Deposit of duplicate of the instrument, together with the record of the transaction by memorandum entered in the book of registration, and endorsed on the grant by the Registrar-General, to constitute registration. In the *Hanse Towns* a system of transfer by registration has been in force for over six hundred years. The transfer and encumbrance of the vast property invested in shipping is managed with facility, economy, and security by this same instrumentality. Mr. Torrens continued that the system of transfer and encumbrance of shipping property by registration gives universal satisfaction, ensuring simplicity, certainty, and economy. He did not propose a scheme involving violent or arbitrary interference with existing evils, but would leave it optional with proprietors to avail themselves of it or not. It will thus be gradual in

its operation, yet will put titles in such a train that the desired result will eventually be obtained." He concluded by moving for leave to bring in the Bill. The motion was seconded by Mr. John Hart, and was supported by every member of the Ministry. In speaking to the measure the Attorney-General (Mr. Hanson) said—"He thanked the Honorable the Treasurer for introducing the measure, and hoped it would be productive of all the expected advantages. He would say that the Bill had not met all the difficulties of the subject. He was, however, disposed to support the motion, that the Bill might receive such improvement and correction as would justify the Legislature in adopting it. It was true that the transfer of shipping property, as well as funded property and property in shares, was safely effected by registration, and if the system of registration only proposed to deal with what lawyers called legal estate, he thought it could easily be adopted. But he apprehended that it would not apply to trusts. A person might wish to settle property for the benefit of his children. He might wish the estate to go to one for the purpose of raising money for the benefit of the others—a mode of disposition which if not restrained by law might become common in this country. He had thus called attention to one of the difficulties of the matter, but would give every assistance in his power to make the measure as complete as possible." The Chief Secretary (Mr. Finniss) "would cordially

support the motion. He thought the project of the measure went to the bottom of the evil, but whether or not it would be sufficient in its details he could not say. He differed from the honorable member with regard to making the measure compulsory. The Statute-book was full of measures that were mere dead letters, because the older system they were intended to improve had not been swept away." No member spoke in opposition to the motion, which was therefore carried, the Bill laid on the table, read a first time, and ordered to be printed. The second reading of the Bill was not effected until November 11th, 1857, when the Ministry formed by Mr. Hanson, of which Mr. William Young-husband was Chief Secretary. Mr. Hanson's Ministry assumed office on September 30th, in succession to that of Mr. Torrens, who carried the second reading of his Bill as a private member of the House, attached to no Ministry. The Attorney-General (Mr. Hanson) regarded the Bill as a highly praiseworthy attempt to deal with a subject which was one of the most important that could come before the Legislature. He would therefore, he said, not oppose it at the present stage ; but on its way through committee, if he found he could consistently do so, he would offer every suggestion and every assistance he could. If after it passed through committee he found he could not support the measure, he should feel it his duty to oppose it on the third reading.* Mr. Hanson was the real head of the

* Mr. Hanson in effect voted against the third reading.

Ministry at the time this remark was made by him, and he actually did vote against the Bill on the third reading, although he must have advised the Governor to give his assent to the measure, which Sir Richard did before the prorogation on January 27th, 1858, stating in his Address to both Houses that although he had been happy to comply with the obvious and generally expressed wish of the Parliament and the country in giving the Queen's assent to the Act "to simplify the laws relating to the transfer and encumbrance of freehold and other interests in land," he could not but feel that a portion of that Act, viz., the 35th section, which contemplates a contingent appropriation of a portion of the revenue of the province—a provision which was not initiated by himself as Governor—is so far wholly inoperative, and will require, therefore, to be made effective by future legislation.

The Real Property Act, therefore, was carried through Parliament by private members in both Houses without being adopted as a measure of policy by any of the four Ministries which had held office during its course. It was an Act strictly forced upon the Governor and Parliament by the will of the people; and so strongly was this will expressed, that few members dared to vote against any of its provisions, at least in that portion of the Legislature whose members maintained their seats by election to the Lower House. In the Upper House the Honorable John Baker, seconded

by the Honorable Mr. Ayers, who had objected to various clauses in the Bill in committee, at the last moment, after the Bill had passed its third reading, moved an address to the Governor, "requesting His Excellency to appoint a Committee to consist of three legal and two non-professional gentlemen, or such other number of persons as His Excellency may deem fit, to enquire into the state of the law and practice affecting real and leasehold property in this province, so far as regards the making out, evidencing, or establishing of titles to, and the transferring of, such property, whether any and what means can be adopted for the simplification of such titles and transfer, and the reduction of the expenses at present attendant thereon, and generally for facilitating the sale and transfer of real and leasehold property in this Province." This motion was interrupted by the appearance of the Governor-in Chief, Sir Richard MacDonnell, to prorogue the Parliament. The chief objections urged against the Bill had reference to what was called the compulsory principle, which provided for the compulsory operation of the Act on all lands alienated from the Crown after July 1st, 1858. And to show the strength of the feeling in favor of the Act, Mr. Baker, on January 26th, 1858, the day after the prorogation, said—" *It was quite clear that any opinions he might now express would be perfectly futile, and that Torrens's Bill would be passed in its integrity and in all its absurdity.*" The Honorable

Mr. Davenport, a consistent supporter of the measure throughout, admitted that there were faults in the Bill ; but he was not prepared to oppose the measure merely because he did not consider it perfect. That now famous Act has been amended in order to meet serious objections made in the Supreme Court, where some of its powers were brought under review. But the Judges who interpreted the law, and whose interpretations led to the useful amendments which have made it an Act suited to all the requirements of the transfer of real property and other facilities for dealing with land, were rendered unpopular through their decisions, although the validity of those decisions was afterwards recognised by alterations in the law. I have been diffuse in my remarks on the Real Property Act because it is an instance that when the community labors under a real grievance, however much its operation may be magnified before it enlists public opinion in the determination to remedy it, the Legislature must enforce the will of the people, although by crude and insufficient measures, leaving to experience of defects in the law to be remedied by subsequent amendments.

The originator of the Real Property Act threw himself into the contest with all the ardor of his race and nature, and has met his reward in the general appreciation of his exertions by a grateful people, and in the honors which the Imperial authorities attached to his name when they recommended Her Majesty to

confer on Sir Robert Richard Torrens the title of Knight Grand Cross of the Order of S. Michael and S. George—honors which he no longer lives to enjoy. This episode has interrupted the course of my history of Responsible Government; but so important a measure as the Real Property Act required a place in history.

To continue and bring to a close the political aspect of Responsible Government I must now revert to the last change of Ministry which I shall record, as it was the last that occurred in the first session of the first Parliament. I allude to the Ministry formed by Mr. Hanson, subsequently known as the Honorable Richard Davies Hanson, appointed to that personal title on August 18th, 1864, under the Duke of Newcastle's despatch of December 28th, 1863, and afterwards on attaining the position of Chief Justice on the retirement from the Bench of the Supreme Court of Sir Charles Cooper, elevated to the rank of Knight Bachelor under the title of Sir Richard Davies Hanson. He, too, has departed this life after a useful and successful career in the public service of more than thirty years. Sir Richard Hanson was a man who when seen in his proper sphere—the Supreme Court—impressed you with the idea of mental power. His broad expansive forehead, when turned upwards in the act of addressing a jury, gave evidence of brain power within, and the deep tones of his voice insured attention to what he uttered. He was no orator of

the impassioned school, but a steady flow of carefully measured words, weighted with calm logical reasoning, produced conviction of the sincerity and force of his argument. In the Legislature he spoke but seldom, and then chiefly in reply to some weak points in the argument of the opposition, for he was almost always a member of some government. Keenly alive to his own interests, and with all the advantages I have described, he was successful in his struggle with the world both in politics and on the Bench, where he closed his career as Sir Richard Davies Hanson, Chief Justice of the Province. I have to view him on this occasion chiefly as a politician. Always associated with him from his first entry into the public service as Advocate-General and member of the Executive Council, I found him a steady and sound adviser in all matters of moment, whether in Council or in friendship. He formed one of the first Ministry under Responsible Government, in which he held the office of Attorney-General, and retired with me when, by common consent, we tendered our resignation to give place to the Honorable Mr. Baker on August 10th, 1857. On September 30th of that year he succeeded in forming the fourth Ministry, and kept in office till May 9th, 1860. In this Ministry he held the post of Attorney-General, acting under Mr. William Younghusband who occupied the position of Chief Secretary, having a seat in the Upper Chamber. Mr. John Hart acted as Treasurer in this administration,

Mr. Francis Dutton held the office of Commissioner of Crown Lands and Immigration, and Mr. Thomas Reynolds that of Commissioner of Public Works in Mr. Hanson's Ministry on its first accession to office. Later the following changes were effected :—Mr. John Hart retired from the Treasury in favor of Mr. B. T. Finniss on June 12th, 1858 ; Mr. F. S. Dutton gave place to Mr. John Bentham Neales on June 2nd, 1859, who in his turn yielded on July 5th to Mr. William Milne, afterwards elevated to the presidency of the Legislative Council on October 11th, 1876, as Sir William Milne, Knight Bachelor. One more change occurred in the Ministry of Mr. Hanson as originally constituted, in the acceptance of the office of Commissioner of Public Works by Mr. Arthur Blyth appointed subsequently Agent-General for the Province, and dignified, in 1872, with the honors of Knight Commander of the Order of St. Michael and St. George, as Sir Arthur Blyth. Mr. Hanson's Ministry was the first that withstood the shocks of party conflict for any length of time, since it took office on September 30th, 1857, and seems to have commanded the confidence of Parliament until May 9th, 1860, when, after the dissolution of the first Parliament on March 1st, 1860, Mr. Hanson, in the new Parliament which met on April 27th of that year, failed to command that support which had been accorded to him previously, and gave place to Mr. Thomas Reynolds, who, with Mr. George Marsden Waterhouse

as his Chief Secretary, succeeded in forming a new Ministry in a new Parliament.

It is no part of the plan of this chapter to give the history of successive administrations under Responsible Government. I have only adverted to the first four changes that took place whilst members of Parliament were settling down to the new duties devolving upon them, and trying their wings, as it were, in the new field of action open before them. The motives of men in such situations become connected with history as the exciting causes of action, and I am attempting to place before the reader all the data available to enable him to unravel the complicated workings of the political situation. When the first Ministry resigned office they were forced to take this step by the want of a party sufficiently strong and united in both Houses to form a working majority. Had the members of the Executive Council refused to take office as a Ministry in October, 1856, when the Constitution Act first became law they might have been held to have forfeited their claims to compensation on loss of office, the grounds of which are stated in precise terms in the 39th clause, which provides: "And, whereas, by the operation of this Act, certain officers of the Government will become liable to loss of office by reason of their inability to become members of the said Parliament or to command the support of a majority of the members thereof, or upon other grounds without any misconduct or incapacity on

the part of such officer." Such refusal to take part in the first Ministry might have been by opponents urged as an act of misconduct which, inferentially at least, was a disqualifying condition. It is evident that on the resignation of Mr. Finniss on August 10th, Sir Richard MacDonnell considered the refusal of the Ministry to advise him by not attending to his summons to meet him in Executive Council, as an act of disobedience which he resented by immediately accepting their resignation, although they had divested themselves of the responsibility of giving him advice, and were themselves the proper judges of the extent to which their services were pledged by the offer made by them to carry on the duties of their departments, pending the appointment of their successors. In the Governor's minute, read by Mr. Baker, the new Chief Secretary, His Excellency attempted to throw the onus of leaving the colony without a Government for a certain time on the retiring Ministry as an act of misconduct. Such at least is the fair inference from the words of the minute. A similar refusal on the part of Mr. Finniss, and of the other members of Executive Council, to hold responsible offices, might have been considered by Sir Richard MacDonnell as an act of disobedience, which, under a Crown Governor, would be a flagrant act of misconduct. I do not for a moment wish it to be inferred that the Governor had any such thought in his mind. But the position ought to be stated as one of the complications that with

others was more readily solved by the course actually followed. It is one of the factors in the problem of motives which deserves to be considered. When Mr. Baker, on the disruption of Mr. Finniss's Ministry, was sent for, he put himself in communication with the members of the retiring Ministry to propose to them to join him in the Government. He made me pressing offers. I knew he did the same with Mr. Hanson, and I believe he also made overtures to Mr. Samuel Davenport. However, none of the old Ministry joined him. Again, when Mr. Hanson, succeeding Mr. Torrens, was intrusted with the formation of a Ministry, he wrote to me at once, offering me in flattering terms to become one of his cabinet. This I declined at the time, alleging my own unpopularity, both in Parliament and in the Press—a condition which I stated must be a source of weakness to him. Subsequently on June 12th, 1858, I joined Mr. Hanson's administration as Treasurer in the room of Mr. John Hart, who proceeded to England on private business. Now why did the early Ministries so soon retire? Mr. Finniss's Ministry, dating from its first meeting the Parliament, extended over a period of only one hundred and twelve days. Mr. Baker's Ministry was defeated in ten days. Mr. Torrens' held out thirty days; but Mr. Hanson's Ministry governed the country from September 30th, 1857, to May 9th, 1861. Mr. Torrens had held a meeting of members to obtain their support before he moved the resolution which

made him Chief Secretary, and fell entirely through his own rashness in suspending the land laws without proper consideration. The causes of Mr. Hanson's long tenure of office are not far to seek. A glance at the roll of names constituting his Ministry shows that with a cautious sagacity for which he was remarkable, he selected for his colleagues the influential men in both Houses—men who in the guerilla warfare which distinguished the first Parliament, were leaders of separate bands of followers, and as subsequent events serve to show, were themselves ambitious of office. The position of the members of a Ministry could only be attained by the break up of existing Governments, and this tactical system was followed with success by Mr. Hanson, who satisfied the aspirations for office of the leading men, and secured support otherwise by a very conciliating demeanor. The Statute-book bears evidence of this view of the political situation. Mr. Finnis, as Chief Secretary, had placed before Parliament a programme of legislative measures, that would have satisfied the appetite for work of the most ardent and enthusiastic reformer; yet not a single Act passed the Parliament and became law till November 10th, 1857, and during the remainder of 1857, a Parliament which met on April 22nd of that year had passed in those eight months only six not very important Acts; even the Appropriation Act was held over till the following year. The attention of members had been directed to the struggle for office, and the privilege

question respecting the powers of the Houses in Money Bills had absorbed much consideration, much debating, and much time. Mr. Hanson enjoyed a prorogation of seven months, and in the five months of the session of 1858, which commenced on August 27th and ended on December 24th, 1859, he succeeded in passing twenty-three public Acts, and two private Acts, whilst in addition he brought the labors of the first Parliament to a close by passing fourteen public Acts and five private Acts. Ambitions had been satisfied, and the passion for work had taken its place. Torrens's Real Property Act, even important as it was, and a clear expression of the views of the Democratic party in Parliament and in the country, was doomed to drag its slow length along through the first session of the first Parliament, and only became law on the last day of the session with a reluctant acquiescence on the part of the Legislative Council, and a reluctant assent on the part of the Governor, signified by a sort of protest against its legality. And now I should close the history of Responsible Government—we have seen it in its throes, its birth, and infancy—but that history would not be complete without an explanation of the collision between the two Houses of Parliament, initiated on the very day of its meeting, and extending to November 19th, 1857. The debates on this question brought out into full daylight the constitutional knowledge of lay members, and all the forensic talent of the legal members of Parliament. The opinions of

the Attorney-General, Mr. Hanson; of Sir James Hurtle Fisher, President of the Legislative Council; and of the Honorable E. C. Gwynne, were elaborate and instructive displays of legal and oratorical ability, which I shall quote at length, together with the recorded resolutions of both Houses on the question, as a fit corollary to the Constitution Act.



CHAPTER XIII.

The privilege question—Struggle between the two Houses for the power of the purse—The Tonnage Duties Repeal Bill amended in the Legislative Council, and sent down to the Assembly with amendments—Debates in the Assembly in assertion of their privileges with respect to Money Bills—Speeches in both Houses—Opinions of the President of the Legislative Council and Mr. Gwynne on the subject—Speech of the Attorney-General in the Assembly—Conference requested by the Council, and assented to in the Assembly.

I PROPOSE in this chapter to give an account of the celebrated privilege question which involved the relative powers of the two Houses as to Money Bills. The Constitution Act enacts in its first clause, "That there shall be, in place of the Legislative Council now subsisting, a Legislative Council and a House of Assembly, which shall be called 'The Parliament of South Australia,' and shall be severally constituted in the manner hereinafter prescribed; and such Legislative Council and House of Assembly shall have and exercise all the powers and functions of the existing Legislative Council: *Provided that all Bills for appropriating any part of the revenue of the said province, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the House of Assembly.*" In the 40th clause it provides "that it shall not be lawful for either House of the said Parliament to pass any vote, resolution, or bill, *for the*

appropriation of any part of the revenue, or of any tax, rate, duty, or impost, for any purpose, which shall not have been first recommended by the Governor to the said House of Assembly during the session in which such vote, resolution or bill shall be passed."

On April 22nd—the first day of the meeting of the first Parliament—the Treasurer (Mr. R. R. Torrens) laid on the table of the House of Assembly "a Bill intituled an Act to Repeal Tonnage Duties on Shipping, and to authorise the leasing of the wharf frontage at Port Adelaide, known as the North Parade," and moved "that it be now read a first time." Bill read a first time, and ordered to be read a second time on Tuesday, April 28th. This Bill passed through all its stages without opposition, and was transmitted by message to the Legislative Council on motion by the Treasurer on May 7th, requesting the Council's concurrence. In the Legislative Council the Bill was taken charge of by the Commissioner of Public Works, and the second reading was fixed for Tuesday next (May 19th). On that day the Commissioner of Public Works, seconded by Mr. Morphett, moved its second reading in the Legislative Council. At this stage debate ensued, in the course of which Mr. Baker said he felt some difficulty in dealing with this the first Bill sent to them by the other House. Perhaps the better way would be to go into Committee and agree upon some message to be sent to the House of Assembly. The standing orders did not provide for such Bills. The President

said the same course must be taken as if the Bill originated in the Legislative Council. Mr. Baker, in continuation, said he must in that case vote against the Bill, assigning his objections, which were to the mode in which the Bill was framed, &c., &c. After several members had spoken, the Council divided on the motion that the Bill be read a second time. There being six votes for the ayes, and six for the noes, the President gave his casting vote for the ayes, when the Bill was read a second time and ordered to be considered in committee on May 21st. In committee alterations were made, and the Bill being recommitted, the first clause was struck out. Mr. Baker said he thought it better to make a stand upon the first Bill that was sent up to them; for if they passed one in an objectionable form, the subsequent difficulty would be increased. The preamble was amended to make it agree with the amended clause which *struck out the repeal of the tonnage dues*. The report of the committee was adopted, and the third reading of the Bill was made an order of the day for Tuesday, June 9th. On the 9th—the day appointed for the third reading—the Commissioner of Public Works moved the recommitment of the Bill. It was a Money Bill, he said, and had been sent up from the House of Assembly. The first clause of the Constitution Act provided that all Money Bills should originate in the House of Assembly. It might be said that this particular Bill did not originate in the Legislative Council, but the

conditions of it were so altered as to make it in effect a new Bill. After a few remarks in support of this view, the Commissioner of Public Works moved the following amendment upon the motion for the passing of the Bill:—*That the Bill, being a Money Bill, be re-committed with a view of restoring it to that state in which its passing will not involve the breach of a constitutional principle and the privileges of Parliament.* The motion of the Commissioner of Public Works was not seconded. As the Bill was then about to be read a third time, Mr. Baker moved an amendment to its title, striking out the reference to the repeal of the *tonnage dues*. This was carried, when the Commissioner of Public Works moved that the Bill do pass, and be carried to the House of Assembly with a message stating the amendments which had been made by the *Legislative Council*. This motion was seconded by Mr. Baker, who remarked that he had heard the remarks of the Honorable Commissioner of Public Works with much regret. They were exceedingly ill-judged, and could only tend to bring about—as he really fancied the Government seemed to desire—a collision between the two Houses; therefore he thought a message should be sent to the effect “that the *Legislative Council* expressed no opinion unfavorable to the repeal of the *tonnage dues*, but simply desired to avoid legislation upon two subjects in one Bill.” As to the powers of the *Legislative Council*, they were limited, and did not extend to the appro-

priation of money or the alteration of taxes ; but he did not understand that they might not alter a Money Bill. The Upper Houses in the other colonies had altered and amended many such Bills, and *what they had done* had been acceded to by the Lower Houses. The motion of the Hon. Commissioner of Public Works “was only throwing down the bone of contention, and it seemed to him that he was carrying out, in so doing, what seemed the policy of the Government.” After much debating on the question of the power of the Legislative Council to amend Money Bills the original motion of the Commissioner of Public Works, which had been seconded by Mr. Baker, was carried and the Bill was sent down to the Assembly. In this state of the question the Tonnage Duties Repeal Bill was sent by message to the Lower House, when, on June 10th, the Chief Secretary rose in his place and said “that he deemed it his duty to call attention to a very serious breach of their privileges by the other branch of the Legislature.” He said, “Upon a recent occasion they passed a Bill through its various stages to repeal the tonnage dues and to authorise the leasing of wharf frontages at Port Adelaide. After a very careful discussion a Bill was passed and sent up for consideration to the other branch of the Legislature. Yesterday they received that Bill without the concurrence of the other Chamber, and also modified in a very essential particular—a particular upon which the House of Commons was exceedingly sensitive and

strict. The modifications repealed one of the important money provisions of the Bill. They had, in fact, struck out the first clause of the Bill altogether—the clause by which that House had repealed the tonnage duties. That was a most important principle, and he submitted that it was the *duty of that House* to maintain it as part of their privileges.” The message from the Legislative Council was here read. The Chief Secretary, after a long argument, moved “that the Bill passed by this House, entitled, ‘An Act to Repeal Tonnage Duties on Shipping, and to Authorise the Leasing of the Wharf Frontage at Port Adelaide known as the North Parade,’ which was forwarded on May 12th last to the Legislative Council for their concurrence, having been returned to this House with amendments modifying the Bill in an essential principle, this House requests the Legislative Council to reconsider the Bill, as it is a breach of privilege for the Legislative Council to modify any Money Bill passed by this House.” This motion was warmly discussed, but at length was carried unanimously and the resolution ordered to be communicated by message to the Legislative Council. (See Parliamentary debates, p. 257.) Here, then, was the beginning of the collision between the two Houses of Parliament, and it should be remarked that it was not an act of the Government of the day. Although the Chief Secretary had moved in the matter he took the question up as affecting the powers and privileges of Parliament, not as a Government measure included

in its policy. The House responded unanimously on their own account, and in assertion of what they deemed their constitutional powers. At this phase of the question the Bill itself lost its importance, all of which now centered in the conflict of opinion between the two Houses with respect to the power of dealing with Money Bills generally. On Tuesday, June 16th, 1857, Mr. Morphett, in moving the consideration of a message from the House of Assembly returning the Tonnage Duties Repeal Bill, requested the President of the Council to state how far in his opinion that House had encroached upon the privileges of the House of Assembly. The President, Sir J. H. Fisher, then rose and said (I omit the opening paragraph of his speech to pass at once to the point)—“Before I proceed to the consideration of that part of the resolution in question which refers to the modification of a Money Bill by the Council, I must observe that I am unable to find any recorded instance of a Bill being sent back by one House to the other for reconsideration, or any precedent which warrants such a course as that adopted in this instance. Having drawn attention, as I have felt it my duty to do, to these preliminary points, I will proceed to the subject upon which my opinion is desired. The subject is one which involves a case of first impression. It is novel and without precedent, and is of vast importance. In expressing my opinion on it, therefore, I may be excused for saying that I do so with great diffidence, though I shall not hesitate to

record it according to the best of my judgment. As to the alleged breach of privilege, the resolution of the House of Assembly puts in issue the right of the Council to make any alteration in a Money Bill, and in effect denies that right. This question must, in my opinion, be governed by the terms of the Constitution Act, from which both the Council and the Assembly derive their legislative powers, and by which those powers are defined and controlled. By the Constitution Act the present Parliament, consisting of two Houses of Legislature, is substituted for that which previously existed, consisting of one House only ; and such two Houses are expressly invested with the same powers as attached to the one House, excepting that it is provided that all Bills for appropriating any part of the revenue of the province, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the House of Assembly. Now the powers vested in the one House or former Legislature were "to make laws for the peace, order, and good government of the colony, provided that no such law should be repugnant to the law of England ;" and those powers are transferred in identical terms to the present Parliament, consisting of the two Houses without any restriction or distinction as to either in reference to the other, or any exception giving to the one any greater or less power or authority than the other, further than as regards the limitation of the right of initiating Bills for the appropriation

of the revenue, or the other objects before mentioned. The powers of each House are, therefore, with the single limitation first mentioned, coextensive and coequal. Such being the case, it appears to me that the Council had as much control over the Bill referred to in the resolution after it was transmitted to them as the House of Assembly had after it had been originated by that House, and previous to its transmission, so far as the right to modify or otherwise alter such Bill is concerned. To maintain the contrary it must be shown that the Constitution Act contains some exception or provision in favor of the House of Assembly to the exclusion of the Council, and extending the limited right of originating Money Bills to the unlimited right of dealing exclusively with them after they are originated without any control whatever on the part of the Council—not even the power of rejecting them—a power which is not distinctly or separately inherent in the Council more than any other of the general powers invested by the Constitution Act in the Council and House of Assembly conjointly for doing all that is necessary for perfecting laws for the colony without any qualification except that before adverted to. In concluding the subject I would advert to the course pursued by the Legislature in the colonies of New South Wales, Victoria, and Van Diemen's Land, not with an intention of citing them as precedents, but as exemplifying their views on the same subject—that is as to the

power of the Legislative Councils in those colonies to interfere with Money Bills originated in the other Houses of Legislature, and transmitted to them for their concurrence.

The Legislature of New South Wales consists of two Houses—a Legislative Council and Legislative Assembly—the two unitedly possessing the same powers as the Legislature of this colony, but differing in their composition in so far as that the Legislative Council is nominated, and the other House elected, and I find on reference to the votes of those Houses that the Legislative Council assumes to itself the right of altering a Money Bill sent to it by the other House, and that *in one instance the latter have assented to an amendment, but with some qualifying remarks appended.* The former Legislature of Victoria, who passed the Constitution Act of that colony, evidenced their intention that the present Legislative Council there should not have the power in question by expressly providing against and excluding the exercise of it. In that Act it is enacted “that all Bills for appropriating any part of the revenue of Victoria, or for imposing any tax, return, or impost, shall originate in the Assembly and may be rejected, but not altered by the Council.” From the insertion of this provision it may be fairly inferred that it was deemed necessary, in order to exclude the Council from the power of altering such Bills, which they would otherwise have possessed under the general

authority to make laws conjointly with the Assembly. The Legislature of Van Diemen's Land consists of two Houses, both elected, and possessing the same powers as the Legislature of this colony. The Legislative Council there have assumed the right of altering, and have, as appears by the votes of that Council, altered several Money Bills, and have amongst others altered the Appropriation Bill. A conference has taken place upon the subject between the two Houses there, and no conclusion has been come to, and the House of Assembly have agreed to the amendments without prejudice. After giving the subject the best consideration in my power, I am decidedly of opinion that the Council in altering the Bill in question as they have done, have not committed any breach of privilege, inasmuch as I consider their acts in this respect to be clearly within the scope of their powers. In forming this opinion I am governed solely by what I conceive to be the legal interpretation of the Constitution Act. Without *viewing the question as one of expediency or not, or allowing my mind to be improperly influenced by any fanciful imagination as to what might or might not be the intention of the Act or its framers further than can be collected from the express terms of the Act itself*, I apprehend that any presumed meaning or intention of an Act cannot prevail over the expressed sense, but that effect can only be given to the intention whenever such intention can be indubitably ascertained by

permitted legal means ; and that while admitting it as a maxim that effect ought to be given to the intention and object of the framers of an Act, I nevertheless hold it to be an established doctrine that in order to give such rule its full signification, it must be such an intention as the Legislatures have used fit words to express. *Although the spirit of an Act is to be regarded no less than its letter*, yet the spirit is to be collected from the letter ; and it would be dangerous in the extreme to infer from intrinsic circumstances that a case for which the words expressly provide shall be exempted from their operation. It would seem that in the United States of America it is not thought unwise to invest the Senate (which is a branch of the Legislature there, synonymous with the Legislative Council of this colony, though elected in a different manner) with the same powers as are claimed by this Council ; for by section 7 of the Constitution of the United States it is thus provided, viz. :—" That all Bills for raising revenue shall originate in the House of Representatives, *but the Senate may propose or concur with amendments as in other Bills.*" With regard to any question of intention, independent of what may be drawn from the language of the Constitution Act, it may be useful to the Council to have placed before them a short outline of what occurred prior to and during the passing of that Act.

In 1853 a Bill was first introduced for altering the then existing Constitution and establishing a Parlia-

ment in this province, consisting of a Legislative Council and House of Assembly, and the clause which was to give to those Houses the powers of legislation contained a proviso limiting the power of originating Money Bills to the House of Assembly in the same words as the proviso before referred to in the present Constitution Act. That Bill passed the Legislature, and, having been reserved for Her Majesty's assent, was disallowed. In 1855 a fresh Act (the present Constitution Act) was introduced, but it did not in the first instance contain any similar proviso. The first and second clauses of that Act were passed in committee, but the first clause was recommitted with a view to the introduction of the proviso, and, after considerable debate, its introduction was admitted. The debate upon the subject on November 27th, 1855, will be found to contain matter bearing upon the point in question, and exhibiting the views taken by the honorable members who joined in that debate. I should here have closed my expression of opinion, but that, considering the importance of the question, and the propriety of viewing and discussing it in all its bearings, I feel compelled to refer to what I understand to be a favorite theory of some, that the right claimed by the Council cannot be well founded, inasmuch as it is opposed to the custom and practice of the Parliament of Great Britain. To establish that theory an analogy must be shown to exist between the Parliament of Great Britain and the Parliament of this

colony, and that such analogy is so close as to render the principle which governs the practice of the Parliament of Great Britain, and upon which that practice is founded, not only applicable to, but as of necessary and imperative adoption by the Legislature of this colony, notwithstanding the Constitution Act, or even coupled with its provisions. I apprehend that no such analogy exists, and therefore the theory is groundless. The Parliament of Great Britain consists of three estates—the Queen, the Lords, and the Commons. The Parliament of this colony consists of two estates only—the Queen and the Commons: although the latter is divided into two different Houses or portions of the Legislature. The Lords are members of the Legislature by virtue of a right inherent in their persons, and they are supposed to sit in Parliament on their own account and for the support of their own interest. In consequence of this they have the right of voting by proxy—(the Commons have not the right because they are themselves the proxies of the people)—and when any of them dissent from the resolutions of their House, they may enter a protest against them containing the reasons of their particular opinions. This part of the Legislature is declared frequently to balance the powers of the people. It cannot be pretended here that the Legislative Council have the privileges of the House of Lords, as such privileges would not be consistent with the constitution of the Legislative Council, because their privileges are ex-

pressly restricted, by the 35th section of the Constitution Act, to the privileges of the House of Commons, showing a continuous and obvious intention by express terms to place the privileges of the Legislative Council and House of Assembly upon the same footing and equality. The Commons are the third estate as the representatives of the people, being elected by them. To the Commons the people have delegated the power of passing laws; to both Houses here the people have delegated the power of framing laws; in both Houses here the people have delegated the same power, and herein consists the real distinction between this and the Imperial Parliament. The Lords as the second estate have a *distinct interest from the Commons*, and are in no way the representatives of the people, while here neither House have a distinct interest from the people, both Houses being equally bound to protect the interests of the people. The only similarity between the Parliament of this colony and the Parliament of Great Britain is that all its constituents form a check upon each other. But the principle of that is different. The House of Commons—that is, the people—are a check upon the nobility or House of Lords, and the latter a check upon the people by the mutual privilege they enjoy of rejecting what the other has resolved. Although the practice of the Imperial Parliament has been so established by long usage and custom, that the *Lords do not interfere in altering Money Bills*, or exercise any other right than that of *either* assenting

to or rejecting them, yet it is a matter of Parliamentary history that in former days there are many instances of the Lords introducing measures imposing pecuniary burdens, and in later times altering Bills passed for similar objects in the Commons, and the Commons assenting to the amendments, but that subsequently the Commons have objected to the interference of the Lords further than by assenting to or rejecting Bills. It is clear that though acquiescing in that restriction upon their rights imposed by the Commons, and by long usage become *the custom of Parliament*, the Lords have never acknowledged any further privilege upon the part of the Commons than that of originating Bills of Supply. The right assumed by the House of Commons, to introduce and pass Money Bills without any further interference on the part of the Lords than by assent or rejection, is founded upon the fact of their being the elected representatives of the people, and as such alone having the right to impose burdens upon them, and the Lords representing their own interests only; but that principle cannot apply to this colony and confer a greater right upon the House of Assembly as to dealing with Money Bills than the Legislative Council, each being equally the elected representatives of the people, and each possessing by consequence *the same authority and control over the finances of the colony*. The duty of each House is equal; both are bound as representatives of the people to protect their interests, and if either neglect to do so it would

be a dereliction of their duty. If the power of the two Houses here is equal, then the supposed analogy to the Imperial Parliament is not maintainable, nor if it were could it have the effect of varying that power, and giving to one House a greater authority than the other."

Mr. Morphett, after this exposition of the views of the President, proceeded with his motive, and in a speech in which he argued the question on the grounds stated by the President, and also made personal allusion to the course pursued in the debates on the Constitution Act in 1855, by the Chief Secretary, the Attorney-General, and the Treasurer, concluded by moving—"That this Council having received a message from the House of Assembly stating that the Council has committed a breach of privilege in returning to the House of Assembly the 'Tonnage Duties Repeal Bill,' with certain amendments made by the Council, and having given the fullest consideration to the message of the House of Assembly, resolves that in the opinion of this Council, it has not committed a breach of privilege in making the amendments to the Bill in question, it being the undoubted right of this Council to make amendments in all Bills whatsoever sent up to the Council by the House of Assembly; and it being bound in justice to the people by whom it is elected to maintain their rights, and to exercise the powers given to it by the Constitution Act, it is the imperative duty of this Council to send the

‘Tonnage Duties Repeal Bill’ again to the House of Assembly, and to desire that the House will concur in the amendments made by the Council; *but this Council regrets that the House of Assembly had not adopted the more Parliamentary course of requesting a conference between the two Houses on the point in question.*” (See Parliamentary Debates, June 16th, 1857, p. 294.) Mr. Baker seconded this motion, and Mr. Forster spoke at length in its support, when Mr. Gwynne rose and said—“He felt some difficulty in expressing an opinion on the subject before the House, as he had neither had the opportunity of giving it the careful attention its importance demanded, nor of hearing the elaborate, and he felt sure, very valuable paper which he understood to have been just read by the learned President. But the question presented itself to him in a very strong light, and he must confess, though under the circumstances mentioned it might seem presumptuous to say so, that he could not conceive of any feasible defence for the course which had been taken by the House of Assembly. The opinion formed by that House appeared to have been partly made up of analogies drawn from the British Constitution, and partly upon conclusions based upon its own reading of the Constitution Act. With regard to the analogy sought to be established, it must be remembered that for a long time the right of the House of Commons to impose taxes was grounded upon the alleged fact that being the representatives of the

people they were taxing themselves. To this it was objected that they also taxed the Peers, who being mostly large holders of property were as much affected as the people. But he believed that the House of Commons held the power of taxation because it was a temporary body elected by the people, while the House of Lords was a permanent body originally nominated by the Crown, and subject to its direct and continual influence. What analogy was there between that House and the Legislative Council of South Australia? The Legislative Council was not nominated by the Crown; it was not a permanent body, for its members went back in rotation to their constituents; and it was not subject to the influence of the Crown. In some of these points, therefore, was there the slightest analogy between them? Even as regarded the powers at present possessed by the House of Commons with regard to Money Bills, he might refer them to 'May,' who would tell them (p. 426) that for three hundred years the Commons were content with simply originating such measures. It was only at a comparatively recent period—in 1671—that they advanced their claims somewhat further by insisting on their rights to prevent Money Bills being dealt with by the House of Lords in any other manner than by assent or rejection; and a resolution to that effect was eventually passed in 1678. That was comparatively a modern power assumed by the Commons House of England; but the House of Assembly here jumped at once to the

assertion of the same rights which had been so long unclaimed at home. He was not prepared to say positively whether or not the Tonnage Dues Bill could fairly be considered a Money Bill, but he would assert with confidence that it was not one which the Commons of England would have ventured to have sent back to the Lords for the reasons, and with the message with which the House of Assembly had returned it to the Legislative Council. No doubt honorable members generally were acquainted with Hallam's luminous observations upon the Constitution, and would remember his mentioning the objection made by the Lords to the practise of tacking on irrelevant matter to Money Bills. The Commons had ceded the point, and the Lords would not now receive any Money Bills containing general clauses. It would be seen then that in mixing up other matter in the Bill for the repeal of the tonnage dues, the House of Assembly had assumed a power which the Commons of England did not claim. The arguments drawn from analogy had not weight with him, for he was convinced that no analogy existed. *The question was simply on the construction of the Act*, the provisions of which he would shortly consider. Till lately our Legislature consisted of a single House, composed of eight nominee and sixteen elected members. To them was granted, by the Imperial Act, the power of altering the Constitution, and substituting for the existing House, a new Legislature, consisting of either one or two Houses.

It was the execution of that power which brought into existence the present Legislative Council and House of Assembly. The Act declared that the Legislature, whether consisting of one or two Houses, should possess no greater powers than those of the former Legislative Council, but it was silent as to the division of those powers in event of two Houses being established. But then our Constitution Act did to a certain extent legislate upon that point so far as to say that all Money Bills should be initiated in the House of Assembly. But it further enacted, in the 35th clause, that it should be lawful for the Parliament to define by Act the privileges, immunities and powers to be held, enjoyed and exercised by the Legislative Council and House of Assembly, and the members thereof respectively, provided that no such privileges, immunities or powers should exceed those of the Commons House of Parliament. It would be seen, therefore, that all the Act said was that Money Bills should originate only in the House of Assembly, but that all further distinction of powers should be settled by a future Act. But the House of Assembly had not waited for legislation on the subject, as was required by the Act; it had come to a conclusion at once. He must say that, before arrogating to itself powers that were not expressly given to it by that Act, it would have been at least more courteous to have passed some resolution on the subject, and directed the attention of the Legislative Council to its views upon the functions of the

two Houses. Instead of that, while the Legislative Council were exercising, as he believed, their proper powers, the House of Assembly sent back a Bill without previous notice, and accompanied by a message charging the Legislative Council with having committed a breach of their privileges. Privileges! Why they had no privileges either as a House or as individual members, and could have none, till a Bill to define them had been passed by both Houses, and was assented to by the Governor. If they required greater powers than they at present possessed, they would obtain them in no other way. He might add that if it could be shown to him that any extended powers they might so seek would be advantageous to the colony, he would be one of the first to concur in granting them; but the course at present pursued was not calculated to promote mutual respect and confidence between the two Houses. The Imperial Act did not define the powers of the two Houses. The Constitution Act gave the House of Assembly the exclusive power to originate Money Bills; but that was a very different question from the negative power of preventing the Legislative Council's amending them. The two questions were historically distinct—literally historically distinct in England, as he had already shown from “May”; and when the Constitution Act gave the House of Assembly merely the power of originating Money Bills without adding anything else, how could it be contended that the other powers

followed as a matter of course ? The Act clearly gave the positive without the negative power. Therefore he, as a lawyer, could give no other opinion than that the Legislative Council had acted legally, and that the House of Assembly had done otherwise, for it appeared to him that the Legislative Council had as much power to alter a Money Bill as it had to alter any other Bill."

The Honorable Mr. Gwynne, who gave the foregoing elaborate opinion upon the relative powers of the two Houses, was a leading member of the Bar, justly distinguished for an extensive knowledge of the law acquired in the mother country, from which he emigrated to settle in South Australia as one of the pioneers. He was subsequently elevated to the Bench of the Supreme Court. His opinion on the privilege question, as it was called, as well as that of Sir James Fisher, has been quoted in full as delivered in the Legislative Council and reported in the Parliamentary Debates. I have not deemed it necessary to give the opinions of the lay members on this great Constitutional question as, although many eloquent, brilliant and logical speeches were delivered in both Houses, those speeches will not carry the same weight in the decision of the point involved as the deliberate utterances of men learned in the law, and by consequence versed in the interpretation of statutes. To these learned utterances I shall simply add the speech of the Attorney-General (Mr. Hanson) in the House of

Assembly, and I cannot avoid describing it as a masterpiece of forensic eloquence, exceeding in power of reasoning, and in its elaborate rhetorical arrangement, any previous or subsequent display of oratory by the learned gentleman. His speech in the Lower House will be quoted in full—lengthy as it is. But I am writing for the guidance of posterity, on a matter of the highest importance to the rights and liberties of all South Australians; and I deem it proper, therefore, to extend this chapter to a much greater length than I had intended, that the whole question may be put before the public in a form in which the arguments are combined into one chapter instead of being scattered through the pages of the printed Parliamentary Debates, mixed up with other debates and much formal matter, which it would be tedious to travel through in order to arrive at the kernel of the question.

The debate in the Legislative Council, when Mr. Gwynne took up the question, was finally brought to a close on June 17th, 1857, and the resolution proposed by Mr. Morphett on the 16th, was carried on a division by a majority of twelve in a House of fourteen members. The names of the members who voted on the occasion were—for the ayes: Captain Bagot, Mr. Stirling, Captain Hall, Mr. Younghusband, Mr. A. Scott, Mr. Angas, Mr. Morphett, Dr. Davies, Captain Scott, Dr. Everard, Mr. Ayers, Mr. Baker, Mr. Forster; on the side of the noes: the Commissioner of Public Works (Mr. Davenport) stood alone. The names of

those who took no part in the division, are: Major O'Halloran, Captain Freeling, and Mr. Gwynne, and the President (Sir James Fisher). The battle was now relegated to the Assembly, where it was taken up on July 22nd, after an adjournment of the House from June 12th to July 21st. The resolution carried by Mr. Morphett in the Legislative Council, and transmitted with a message to the House of Assembly, contained in its last paragraph words amounting to a reproof of the Assembly in asserting "that the Council regretted that the House of Assembly had not adopted the more Parliamentary course of requesting a conference between the two Houses on the point in question." This was certainly going beyond the mere upholding of a right. On July 22nd, the day after the recess, the Chief Secretary moved that the House of Assembly go into committee of the whole House, to consider the message from the Legislative Council, dated June 17th, and argued the question at length entirely upon its merits, omitting all reference to the personal allusions made in the Upper House. He concluded, amidst cheers, in moving "*That the amendments proposed in the Tonnage Duties Repeal Bill by the Legislative Council be not agreed to by this House, and that the Bill remain on the table pending the further pleasure of the House, with a note thereon of this decision, to be made and signed by the clerk. That by the Constitution Act the sole power to originate any Bill for appropriating any part of the*

revenue or for imposing, altering, or repealing any rate, duty, or impost, is vested in the House of Assembly. That the right so conferred of originating all Money Bills for these purposes necessarily includes the whole right to direct, limit, and appoint in such Bills the ends, purposes, consideration, conditions, limitations and qualifications of the tax or appropriation by such Bill imposed, altered, repealed, or directed, free from all change or alteration on the part of any other House. That when this House transmitted to the Legislative Council its message of June 10th, 1857, it had no reason to suppose that any conference with the Legislative Council could be required, since the power with regard to Money Bills, claimed in the message now under consideration, had not then been asserted."

The motion of the Chief Secretary was seconded by the Treasurer, and supported by him in a brilliant speech, in which he rebutted the charges of inconsistency applied to himself, based upon the arguments he had used in 1855, in the discussions which resulted in passing the Constitution Act, which arguments applied to a measure altogether different in its conditions from the Act which finally passed the Legislative Council of that period. He took up the argument of analogy so fully discussed in the Upper House on this occasion, and generally he combated with great clearness and force, the views of those who asserted the claims of the Legislative Council to

modify Money Bills. A very interesting and instructive debate followed, in which most of the members spoke as though they were addressing their constituents, since threats of a dissolution had been muttered. The Attorney-General (Mr. Hanson) rose late in the debate, which occupied three days. The resolution of the Chief Secretary was carried on July 24th, and on a division being called for, twenty-six members voted for the ayes, and one only for the noes.* The Attorney-General spoke on the 24th, the last day of the debate. His words were (I omit the opening paragraphs as being merely introductions)—“The point at issue—the point which we now have to decide—is whether the House of Assembly, claiming to be the special representatives of the whole people of South Australia, or the Legislative Council, which represents only a portion of the community, is to have power over the public purse. That is the question to be discussed. The Legislative Council, by the resolution transmitted to this House, virtually says this power belongs substantially to themselves, because they come after us, and by virtue of their power of amendment, possesses and can exercise a controlling power over everything we have previously done. We say, on the contrary, the power of right belongs to us, both as representatives of the people, and by the express words of the Constitution Act; and, sir, this and not any formal or technical point is the question which

* See votes and proceedings of the House of Assembly, July 24th, 1857.

we have now to settle. Now the first point to which I would call attention is this. *What was the intention* of the Legislature when they introduced the clause upon the construction of which this dispute has arisen? And, sir, although I have read in the papers reports of speeches, stated to have been made in another place—and when I say papers, I wish it to be understood that I am referring to the organ of an honorable member who has a seat in that place—although I have read in those reports statements to the effect that the Upper House had nothing to do with “intentions” in arriving at the meaning of this clause, but that all they had to do was to look at the plain, grammatical construction of the words used. I must say that if such language were used, it would be very appropriate for a mere lawyer arguing in favor of a particular construction; but it is not the language of a statesman, and assuredly it is not the language of a man who desired to be guided in public affairs by the principles which would actuate him in private life. At any rate, sir, to us who have no wish to claim any power which it was not the object of the Legislature to confer upon us, *this question of intention is important.* I affirm, then, as a point beyond dispute—as a matter which everybody felt and clearly understood at the time this clause was passed, that the intention of the late Council was to give the House of Assembly in this Legislature the same powers with regard to money which the House of Commons possesses in the

Imperial Parliament. But, sir, if in seeking to give effect to this intention words had been used which were believed to express and give effect to the avowed purpose of the Legislature, and if it were subsequently discovered that through some negligence or accident the words employed did not fully carry out this intention, or at least were capable of being perverted from their intended meaning, and if it were attempted so to pervert them, then, I say, what would be thought of such conduct in private life? What would be thought of an individual who would say ‘Oh, it is true we were two parties to a bargain; we entered into an agreement to do so and so. I admit that our intentions in the compact were precisely as you represent; but you see that some words were dropped out of the agreement, and now I take my stand, not upon our intentions, but upon the letter of the contract.’ I ask what would be thought in private life of such an individual as that? What, then, in public life, ought to be thought of the conduct of gentlemen *who, by their very protest against inquiring into the question of intention*, really admit that the intention of the framers of the Constitution Act was, as I have described it, namely, that the House of Assembly should have all the rights and privileges in money matters which are possessed by the English House of Commons — of gentlemen who say, ‘We admit that that was our intention; but because it is not clearly expressed, we will not carry it out?’ I shall go a little

further, but not much, because the honorable members for the Sturt, Gumeracha, and the Burra, as well as the Treasurer and the Chief Secretary, have proved by arguments and quotations from various sources what was the distinct understanding of the various persons who took part in the discussion—not merely in the discussion of this particular clause, but in all the various discussions which preceded the passing of the Constitution Act. These honorable members, I say, have proved beyond all doubt that the intention avowed by all was to give the Lower House the power of the purse; therefore I do not go into that. I will refer only to one or two matters which have not yet been adverted to, to show that the intention of the Legislature was such as I have described it. You will recollect, sir—many members of this House will recollect—the time when the first Parliament Bill was introduced by the Government; they will recollect, as has been already shown, that that Parliament Bill contained a provision with regard to Money Bills substantially identical with the provision embodied in the Constitution Act under that Parliament. But it was intended that the Legislature should be composed of two Houses—one being elective, and the other nominative. Of course it was never intended—it was never supposed to have been the view of the Government, and certainly it could not have been supposed that it would have been submitted to by the country—to give to a body nominated by the Crown any

more power over Money Bills than is possessed by an analogous institution—viz., the House of Lords, the members of which hold their seats by virtue of dignities conferred by the Crown. To show that such was the intention of the Government in introducing that Bill, and that such must necessarily have been the design and intention of the Legislature by which it was passed, I would refer the House to the speech of the late Governor, Sir Henry Young, in opening the session of Council for 1853. On that occasion, after stating what was to be the Constitution of the two Houses, he said :—‘ In framing the Bill for constituting a Parliament a principal object has been to combine the advantages of a popular Government with those which result from the existence of an independent body, identified with the permanent interests of the colony, and forming a security against hasty or partial legislation. With this view the number of members of the House of Assembly is proposed to be increased, the elective franchise extended, the duration of the Assembly to be reduced from five to three years, and a more simple and, it is believed, efficacious plan of registration has been devised. *It has been provided* (mark the words!) *that the Assembly thus constituted shall have the same control over the revenue and expenditure which is possessed by the Commons House of Parliament in England.* That is a matter upon which there can be no question. It is on the records of the journals of the Legislature of this province ; so

that here there is a distinct announcement, acquiesced in by the whole body of the Legislature of the day, that the words used in this Act for the purpose of defining the powers of the House of Assembly did provide that we should possess all the privileges with regard to Money Bills which are enjoyed by the English House of Commons. And, sir, throughout the whole of the debates on this subject there never has been a word used by any member who voted in favor of the clause embodied in this Bill tending to show that they ever dreamt of conceding to the Legislative Council, as now constituted, any other power with regard to Money Bills than that possessed in the Imperial Parliament in analogous matters by the House of Lords. Independently, then, of the quotations to which I have referred, and which have been adduced by other honorable members concerning 'the power of the purse,' and which means nothing unless it means what we are now contending for, the records of the House afford conclusive proof of what was understood to be the meaning of the words which are substantially embodied in the Act under which we now meet and by the authority of which we now legislate. It was thought, whether justly or not I will not at this moment enquire, that the words originally introduced in the Parliament Bill of 1853, and afterwards embodied in the amendment you, Sir, introduced into the Constitution Act did not sufficiently define the power intended to be granted, and, therefore, Mr.

Baker that was then, and the Honorable Mr. Baker that is now, together with some other members, expressed an opinion that some other words should be used for the purpose of making it more clear that all power with respect to dealing with Money Bills was vested in the House of Assembly. I cannot pretend to say what was passing in the mind of the Honorable Mr. Baker at the time. I cannot pretend to say whether he saw, or fancied he saw, the loophole which some brain, fertile in objections, has since discovered. I cannot pretend to say whether he thought that the words he then uttered would lead anybody to suppose he would support the Legislative Council in the claim they have now set up; but I do say that had the hint been given at the time to the majority of the Legislature who passed this clause, that any such question as that which we are now discussing would ever have been left open to the construction now attempted to be placed upon it good care would have been taken to prevent the 'loophole' which has been taken so much advantage of. Every honorable member who supported or opposed your amendment believed, or professed to believe, or, at any rate, acted as though he believed that these words conferred upon the Lower House the entire control of the public purse.* Now, such being the case, I must say again,

* Mr. Baker did not consider it conclusive against the Legislative Council, and there may have been others. But the supporters of Mr. Kingston's amendment were satisfied of the legal knowledge of the framers of the clause.

Sir, that the conduct of those who, having been parties to passing this Act, now say that the intention might have been that which this House affirms, but that the words of the Act do not carry out that intention, and that they will, therefore, look only at the letter and pass over the spirit of the law is not such conduct as we should have expected from gentlemen wearing the honorable title to which I have referred.”* At this stage of the debate Mr. Hanson takes up the question of his own consistency as Mr. Torrens had done. I leave this out as scarcely relevant to my plan of proceeding. Mr. Hanson proceeded to say—“I voted against the amendment (the proviso of Mr. Kingston) because the place at which it was proposed to introduce it did not appear to me the most suitable. But I spoke strongly and I pledged myself to vote in its favor when the 35th clause should come under consideration. I stated, Sir, as my reason for supporting the principle supposed to be embodied in the amendment that there were two inconveniences which would arise from giving to the Legislative Council the equal power proposed to be conferred by the original Bill. (This was in 1855.) The first of these which certainly appeared to me to be a great inconvenience was that if either House might initiate Money Bills, then it would be in the power of any Governor—I do not speak of Sir Richard Graves

* This is vituperation, not argument.

MacDonnell or of any Governor in particular, but of that abstraction: 'the officer administering the Government'—if he found a Conservative Upper House were in favor of particular interests which he, the Governor, was desirous of supporting it would be in the power of His Excellency to select his Ministry exclusively from the members of the Upper House. If, as was proposed, that House had possessed the power to originate Money Bills we might possibly find the Governor conducting the whole business of the country in the Legislative Council in the same way as it is now conducted by the Government in the House of Assembly. All Money Bills would be initiated in the Upper House, in which all, or a great majority, of the Ministry might have seats, and we should only be privileged to check the 'Estimates.' Under such circumstances the Governor would have had it in his power to play off one House against the other; and thus all the substantial power of the State would be placed in his hands. This, Sir, was the first inconvenience which I apprehended from the equal powers in money matters proposed to be given to both branches of the Legislature. But there was another inconvenience bearing more particularly upon the present question which I pointed out; and in reference to this I will quote from the *Register* words which I find are attributed to me, and which, therefore, I believe that I substantially employed. . . . I am therefore willing to take the report as far as it professes

to represent what I did say as substantially correct. (In the *Register* of November 28th, 1855.) 'It (the right in both Houses to initiate Money Bills) would also have the effect of bringing the two Houses into collision and give to each a right to scrutinise, alter, and amend to any extent the the decisions of the other.' Now, in giving that as a reason why the power should not be accorded to the Upper House which your amendment (Mr. Kingston's) proposed to take away from that Chamber, I necessarily implied as my belief that if the power to originate was taken away, it would also take away from them the right of scrutinising, altering, and amending Money Bills. Then I find I am again reported to have said—'It was desirable that whatever House was considered as containing the Conservative instinct, as opposed to that which would more especially represent the popular element, should have the power to refuse the levying of taxes and imposts, but not to originate Bills having these objects in view.' Then I proposed that the House which was to represent the Conservative interest should have the power to refuse but not to alter Money Bills. I did that because I understood, as I believe every constitutional lawyer, up to that time, had understood that the power of initiating Money Bills included and carried with it the sole power to deal with them in their various stages. . . . 'I am sure of this—that the people of South Australia chose an elective Upper House because they

believed it would more faithfully represent them, and be more amenable to proper influences than a nominated Chamber ever could be. I believe, therefore, that the people would regret any necessity which might arise for disposing of that body. For my own part I emphatically declare that in my opinion, with the exception of the control of the purse, the powers of the Legislative Council should be coequal with those of the House of Assembly. I hold this opinion because I think that without the possession of these powers the dignity and efficiency of the Council would be impaired, and because I believe that the House which possesses the power of the purse has the means of bringing the other House into conformity with its views. And, sir, I am of opinion that these means should belong to the House which represents the people, as opposed to that which represents a class. But under present circumstances if the claims of the Upper House were conceded, any one of its members might—after a Bill had been originated here by being laid on the table of the House—take it up and proceed with it in the Legislative Council. I see nothing in the plain, grammatical construction of the clause which should prevent that being done. If we are to have nothing more than the power of originating Money Bills in this House, as that power is now sought to be defined, then I say we have no power to bring the other House into conformity with our opinions; and if a difference takes place in which

neither Chamber is disposed to yield, we have no other remedy than an appeal to the people as the source and origin of all our powers; and they, I have no doubt, would set all things to rights by creating a Legislature which shall in reality represent their opinions. But I should regret the necessity that would compel such a course. The difficulty which has arisen out of the attitude of the Council is one of those difficulties which it was supposed would have been avoided had the plan suggested by the Government in the first Parliament Bill (1853) been carried out, namely, that the Upper House should not be elected by the people. We should then have been in a position to say the will of the people is only expressed in the House of Assembly; and we should have had constitutional methods of overcoming the resistance of the Upper House. But, sir, it would seem that no such constitutional means now exist; and, therefore, deeply as I should regret a change in the Constitution, yet I must agree with the Treasurer as to the necessity of devising some effectual means of bringing the two Houses into harmonious operation. It is not to be expected that the House of Assembly* can give way to the Legislative Council. Something, therefore, must be done to make the Legislative Council give way to the House

* The House of Assembly is elected by universal suffrage; the Upper House is elected by a limited class of voters holding a high property qualification, and the term of office is for twelve years, one-third of the members retiring every four years.

of Assembly ; because there is no other way of getting over the difficulty except the one I have just adverted to. But, sir, it has been said that the Legislative Council represents the people, and I see the Honorable A. Forster has put forth that statement in a letter. Mr. Forster puts down the number of constituents represented by the Upper House at 10,000, and seems to argue that it is intended on the part of this House to set aside and ignore the influence of this large class of people altogether. Now, this argument implies an entire forgetfulness of the fact that these 10,000 constituents are quite as much represented in this House (the Assembly) as they are in the Legislative Council. I believe that there is scarcely one of those 10,000 electors who recorded his vote for the Upper House, that did not, if he had the opportunity, also record a vote for the House of Assembly. I don't know what proportion recorded their votes in my favor, but I feel satisfied it amounted to a large number. One thing is quite evident, this House not only represents—as I say emphatically that it does represent—these 10,000, but it represents many thousands beyond them. We, as well as the Upper House, represent that class of the community possessing the Conservative instinct—that class which comprised so many opponents to the original Government scheme* of making one suffrage for both Houses—these electors are included in one

* The original Government Bill of Sir R. MacDonnell gave equal powers in money matters to both Houses.

constituency. We, therefore, represent all that the Legislative Council represents, and we do a great deal more than this; because while on the one hand we represent all that they represent, on the other, what we represent they do not and cannot represent. But for any person to speak as though the 10,000 were not represented in this House, involves such a manifest absurdity, such a palpable fallacy, that I could hardly have expected it to proceed from a master of logic so eminent as the hon. gentleman to whom I have referred." . . . (I omit here much personal allusion, and return to Mr. Hanson's speech, where he says)—“I will now advert to the question, how far the powers we claim are warranted by the language of the Constitution Act? Now the argument of the Legislative Council is that the words ‘originating Bills’ having been used for the purpose of defining the privileges specially given to the House of Assembly, it necessarily leaves in the other House the same power of dealing with these Bills after they are once introduced as is possessed by this House. But as I have already stated, if that argument be allowed, there is no reason why they should not take up any Bills before they have passed this House—though nothing of the sort is claimed at present, and therefore I need not dwell on this point. I advert to it in order to show that the arguments they now use might easily be stretched to embrace that position. But leaving this interpretation as one which is not likely to be urged as yet, and examining

what are our powers, I would remark, the first thing one would look at as a means of deciding the rules by which Parliament should be guided, would be the standing orders of both Houses. These are the authoritative interpretation which each has given of its rights and its position. Referring to these orders of both Houses, I find that in our standing orders provision is made that in all matters not specially provided for we shall be guided by the 'rules, forms and practice of the Commons House of the Imperial Parliament.' This is one rule. The Legislative Council, on the other hand, have adopted the standing orders of the late Legislature, and which provide 'that reference shall be had to the rules, forms and usages of Parliament.' If these standing orders are to go for anything, the question would be at once put at rest, for the phrases used in these standing orders by the Legislative Council show that they conceive themselves to occupy a position in the Constitution analogous to that occupied in the United Kingdom by the House of Lords, whilst those adopted by the House of Assembly show clearly our claim to occupy a position analogous to that occupied by the House of Commons; and nobody doubts that, in regard to amendments of Money Bills, the exclusive powers that we claim are claimed and enjoyed by the House of Commons. The question would thus seem to have been decided by the language which has been used. Sir, the Constitution of England gives the power of

originating to the House of Commons only; and the Constitution Act of this province adopts the same principle, and restricts the power of originating Money Bills to this House only. It defines, therefore, by analogy the position of the Legislative Council in this Legislature, and it makes it analogous to the House of Lords in England. All the arguments advanced yesterday by the Honorable Member for Encounter Bay (Mr. Babbage) to show that there is no such analogy would have been good arguments in the former Legislature for opposing the motion which you, sir (Mr. Kingston), brought forward. It would have been proper then to say that, as the Legislative Council was elected by the people, and by a larger constituency than any of the constituencies in the House of Assembly, and by those who held a property qualification, it should participate in the powers enjoyed by the representatives of the people. Such arguments would then have been perfectly legitimate; but they are of no avail now; and, sir, I doubt if they would have availed then, for the constitution of the Legislative Council was based upon such Conservative principles that the powers now claimed would never have been conceded to it. The qualification of the Upper House has been fixed so that it represents the Conservative opinions of the colony. This was a scheme which originated with the Honorable Member for Mount Barker in 1855, and which he then proposed in order that the local popularity of individuals might

not prevail in opposition to a more extended reputation—that no one should be elected by a particular constituency, but by the colony at large. The nature of the qualifications of the electors, and the term of tenure of office in the members, were agreed on for two purposes; in the first place to represent the Conservative interests of the community; and in the second place not to represent the immediate interests of the people, or be a reflex of their sentiments. According to every constitutional writer that I am aware of, the position of such an Upper Chamber is analogous to that of the House of Lords in England. It has been said that the House of Lords originated in spoliation, and, for aught I know to the contrary, the Kingdom of England originated in the same way, and yet she is now the first of kingdoms, and one whose name we are proud to bear. But the remark does not apply to nine-tenths of that body in any degree; and, after all, whatever their origin was, we have now to look at their position. For the last century and a-half it has been that of representing the Conservative interests of the community as opposed to the House of Commons representing the progressive spirit of the time and the feelings and sympathies of the nation at large. That is the substantial analogy between these two Houses and the two Houses here. This is what was intended by those who proposed this constitution for the Legislative Council, and it was acquiesced in by others; because as the power of the purse was given to the

Lower House, there was no objection to the Legislative Council being formed so as to represent the Conservatism of the country. *The substantial analogy, therefore, between the House of Lords in England and the Legislative Council here is established affirmatively by their position and by the objects they are intended to subserve, as well as negatively by the functions of which they are divested respectively—that of originating Money Bills.* Having shown that this real analogy exists, let us now look at the Constitution Act; and when we see that the power for originating Money Bills is given to the House of Assembly, *must we not read that Act by the light reflected by the British Constitution?* Speaking as a lawyer, I would say that one of the recognised canons of interpretation, whether applied to an Act or to a deed between parties where there is doubt or dispute, is to look at the state of the common law of England at the time the law was passed? Now what was the state of the common law of England at the time the Constitution Act was passed? The privileges of Parliament are part of the common law; and this power of originating Money Bills is known to and defended by the common law. Every constitutional lawyer and every statesman uses the word ‘originate’ for the purpose of defining the power of the House of Commons with regard to Money Bills; and the sole right to all the subsequent dealings with them follows as a necessary consequence from this power, and so it will follow in this House.

Undoubtedly if it had been supposed—as nobody did suppose—that in giving to this House in words the whole privilege which, by law, belongs to the House of Commons of originating Money Bills, that this House had not also the same powers with regard to those Bills after being originated which the House of Commons enjoyed it would have been easy to introduce words to clear up the doubt—but nobody did suppose it. Everyone believed that in placing the Legislative Council on the same footing with the House of Lords by putting the House of Assembly on the footing of the House of Commons with regard to the power of originating Money Bills, the two Houses were placed, in relation to this matter, in the same position as the two Houses of Parliament in England hold to each other; and that, as flowing from this power, the Lower House would possess also the power of denying the right of the other House to alter Money Bills in any way. I have spoken at greater length than I intended, and I do not know that it is needful to enter on other topics, because, after all, it is not disputed what the intention of the Act was; and it is not disputed that the language which has been used in the Act for the purpose of giving effect to that intention is the language which the law employs in defining the essential privileges of the House of Commons. Originally, by law, the Commons had nothing but that which is in form given to us: the power of originating Money Bills. Every other

privilege has followed, as a necessary consequence, from that; and the persons who employ those words for the purpose of defending the privileges of this House must be supposed to use them in accordance with the law of England. These words must be intended to involve the same consequences as in the constitution of the mother country. Having said this I will leave that part of the subject." I here close my quotations from the speech of the Attorney-General, Mr. Hanson, delivered on July 24th, 1857, before the resolution of the Chief Secretary was adopted in the first House of Assembly. Some passages have been omitted besides the closing paragraphs, where I thought personal allusions had been used as argument, and I hope that in doing so I have not interrupted the thread of his logic; yet I must confess I have left out some of his sentences with great reluctance, as they undoubtedly linked together the parts of a splendid oratorical display quite unusual with Mr. Hanson, who, as a rule, seems to have reserved his great powers for great questions only. Want of space has obliged me, in a similar manner, to omit from this narrative many able speeches which would have done credit to any Legislative Assembly in any part of the world, so eloquent had members become whose feeling and reason and the popularity of the subject were all enlisted on their side.

This ended the debate on the great privilege question as to the interpretation of the meaning of the word

“originate” in constitutional language as used to define and limit the legislative powers of the two separate Houses of Parliament under the new Constitution. The question now took the form of conferences between the two Houses, and, in order to complete the history of this important Parliamentary contest, I shall summarise in another chapter the messages which passed between the two Houses until the matter was settled or rather died out before the close of the year 1857.



CHAPTER XIII.

Proceedings in both Houses of Parliament on the Privilege Question, from August, 1857, to the close of the first session of the first Parliament on January 27th, 1858—Conference of both Houses—Reasons stated by the Managers at the Conference.

ON August 25th the Honorable Mr. Baker addressed the Legislative Council as Chief Secretary of the new Ministry which had been formed after the resignation of the Finnis Ministry. In concluding his remarks Mr. Baker proposed the following resolution:—"That the adjustment of the difference of opinion now existing between the two Houses of Parliament as to the construction to be put on the Constitution Act, so far as it relates to the dealing with Money Bills, is of such vital importance to the interests of the province as to justify this Council in requesting a conference with the House of Assembly upon these differences." The Council went into committee to consider this motion, when the resolution of Mr. Baker was carried and ordered to be transmitted as a message to the House of Assembly. In the records of the votes and proceedings of the House of Assembly I find an entry to the effect that a message from the Legislative Council was received and read on August 25th, 1857, in the following terms:—Message, No. 11. "Mr. Speaker—The Legislative Council requests that a

conference be granted to it by the House of Assembly in reference to the powers of the two Houses in reference to Money Bills, with a view to arranging a mode of exercising these powers which shall conduce to the furtherance of public business, without compromising the constitutional right of either branch of the Legislature. (Signed) J. H. Fisher, President. Legislative Council Chamber, August 25th, 1857." This message was accompanied with the following copy of resolutions agreed to on August 6th by the Legislative Council :—" 1. That in consequence of the course adopted by the House of Assembly in reference to the amendments made by this Council in the 'Tonnage Duties Repeal Bill,' and in the recent discussion of the question of privilege raised by that House as arising out of such amendments, it is expedient that this Council should place upon record its opinion as to the powers and privileges conferred upon it by the Constitution Act, so far as regards its powers in dealing with Money Bills. 2. That this Council is of opinion that it is their bounden duty to maintain, inviolate, its rights as an elective representative portion of the Legislature of this colony, and that the power of protecting its constituents and the colony at large from oppressive or unjust taxations or burdens is essentially and necessarily an ingredient in such rights. 3. That the Constitution Act empowers it to originate any Bills which it may think necessary for the order and good government of the colony,

except Money Bills, which can only be originated in the House of Assembly. 4. That it has the power to consider and discuss all Bills transmitted to it by the House of Assembly, and to alter, modify, or reject such Bills; that the House of Assembly has similar power with reference to all Bills sent from this Council, and that the powers of the two Houses of Legislature are concurrent, except as to the origination of Money Bills, 5. That it is empowered to revise all Money Bills passed by the House of Assembly with a view of checking, and if necessary of reducing the taxation of the country; and that such power, judiciously exercised, will operate more for the benefit of the colony than the power of voting to which the House of Assembly is desirous of restricting it. 6. That in case the House of Assembly should in any Money Bill sent by that House to this Council for its concurrence, propose to subject the people of this colony to a greater amount of taxation than this Council in the exercise of its judgment might think just and proper; or propose so to apportion the revenue as to give an unjust advantage to any particular part of the colony, the only result which must necessarily flow from the attempted restriction by the House of Assembly of the right of this Council to reduce the proposed amount of taxation, or to modify its appropriation, would be to arbitrarily compel this Council to reject the Bill, the consequences of which, in the case of an Appropriation Bill, might be most disastrous

to the colony. 7. That the limited power of saying 'yes' or 'no' to a Money Bill—of absolutely passing it in its entirety, or rejecting it in its entirety—is inconsistent with the advanced position of this colony in political rights; that such a restriction of power was not contemplated by the constituency who elected the members of this Council, and that this Council would be wanting in fidelity to that constituency and to the country were it to admit such restriction. 8. That as this Council represents the province as one constituency, it would be unreasonable to prevent it from reducing any vote which might in its opinion press too heavily upon the people. 9. That the exclusive power of originating Money Bills, and finally dealing with them, vested in the House of Assembly, gives to that House the control of the public purse, inasmuch as it alone has a right to decree what taxes shall be imposed, and how they shall be appropriated; and to represent that this Council is desirous of wresting the control of the purse from the House of Assembly is calculated to mislead the public as to the real merits of the question at issue between the two Houses. 10. That the maintenance of the views now expressed need not be detrimental to the harmonious working of the two Houses; that the consideration of all money questions by each house would tend to a more safe and economical administration of the public finances than could be secured by the consideration of such questions by one branch of

the Legislature only; and that the denial on the part of the House of Assembly of the right of this Council to deal with matters of finance is inconsistent with the Constitution Act, and much to be regretted.

11. That the exercise of concurrent powers of legislation by the two Houses (always excepting the originating of Money Bills by the Legislative Council) would not interfere with the proper dispatch of public business; and that the advantages that would result to the country from the revision of Money Bills by this Council would more than compensate for any delay which would arise from such revision. 12. That any difference which might arise between the two Houses with reference to matters of legislation resulting from the exercise of such concurrent powers should be adjusted by a conference. 13. That this Council should uphold the powers and privileges conferred upon it by the Constitution Act, for the protection of the interests of its constituency and the people at large, unless the voice of that constituency clearly expressed to this Council shall demand an alteration of the Constitution Act for the purpose of resisting those powers and privileges.—(Signed) F. C. SINGLETON, Clerk of the Legislative Council. August 25th, 1857.”

The following Copy of Resolutions agreed to on August 25th, 1857, was also forwarded:—“1. That the adjustment of the differences of opinion now existing between the two Houses of Parliament as to the con-

struction to be put on the Constitution Act, so far as it relates to the dealing with Money Bills, is of such vital importance to the interests of the province as to justify this Council in requesting a conference with the House of Assembly upon these differences. 2. That the resolutions of this Council adopted on August 6th be forwarded by message to the House of Assembly, and that a conference be requested thereon, in terms of No. 12 of the said resolutions. 3. That this Council further declares its opinion that all Bills the object of which shall be to raise money, whether by way of loan or otherwise, or to warrant the expenditure of any portion of the same, shall be held to be Money Bills. 4. That it shall be competent for this Council *to suggest any alteration in any such Bill* (except that portion of the Appropriation Bill that provides for the ordinary annual expenses of the Government); *and in case of such suggestions not being agreed to by the House of Assembly, such Bills may be returned by the House of Assembly to this Council for reconsideration*, in which case the Bill shall either be assented to or rejected by this Council, as originally passed by the House of Assembly. 5. That this Council, while claiming the full right to deal with the monetary affairs of the province, *does not consider it desirable to enforce its right to deal with the details of the ordinary annual expenses of the Government*. That on the Appropriation Bill in the usual form being submitted to this Council, this Council shall, if any

clause therein appear objectionable, demand a conference with the House of Assembly, to state the objections of this Council and receive information.—(Signed) F. C. Singleton, Clerk of the Legislative Council. Legislative Council Chamber, August 25th, 1857.”

The matter stood over until Wednesday, September 9th, 1857, when a resolution was passed in the Assembly to the effect “that this House will comply with the demand of the Legislative Council for a conference in accordance with message No. 11 as soon as the Legislative Council informs this House of the number of managers to whom it proposes to entrust the conference.” On September 10th, in reply to this resolution of the Assembly, the Legislative Council (by message No. 14) informed the House of Assembly “that the number of its members to represent the Council at the proposed conference between the Houses of Legislature shall be three.” On receiving this message the House of Assembly agreed to a resolution on September 16th, which was communicated by message to the Legislative Council—“That in compliance with message of the Legislative Council, No. 14, requesting a conference, Messrs. Bakewell, Dutton and Reynolds be appointed by this House to meet the members appointed by the Legislative Council on Tuesday, September 22nd, at three o’clock, in the Speaker’s room, and to receive their reasons.” This, by request of the Legislative Council, was postponed until Tuesday, September 29th, when the conference

took place; and the managers for the Assembly reported, on their return, that they had been met at the conference by the managers for the Legislative Council, who had delivered to them the following reasons, which were then read by the Clerk of the Assembly, viz.:—"Reasons offered to the House of Assembly by the Legislative Council, at a conference in support of the resolutions transmitted to the House of Assembly by the Legislative Council on August 25th, 1857.—1. The House of Assembly assumes not only that all Bills mentioned in the proviso in the first clause of the Constitution Act (hereinafter designated Money Bills) ought to begin in that House, but further that it is the undoubted and sole right of that House to direct, limit and appoint in such Bills the ends, purposes, considerations, conditions, limitations and qualifications of any rates, taxes, duties or imposts thereby assessed or imposed; and that the power of the Legislative Council in respect to such Bills is merely to pass all or reject all without any diminution or alteration. 2. The Legislative Council admits that for the practical purpose of introducing such Bills to the consideration of, and of their being dealt with by, the Legislature, and for the purpose of limiting the power of such introduction to one branch of the Legislature, the sole power of originating Money Bills is by the Constitution Act vested in the House of Assembly, but subject to that particular exception in favor of the House of Assembly, the Legislative Council considers that its

powers and functions are co-ordinate with and equal to those of the House of Assembly. 3. The Legislative Council contends that the law and custom of Parliament of the United Kingdom of Great Britain and Ireland are applicable to that Parliament, and that such law and custom have not, nor ever had, the force of law in this province ; and consequently that neither the Legislative Council nor the House of Assembly possesses at present any privileges beyond what are conferred in express terms by the Constitution Act, excepting only that both Houses have incidentally to the functions given to make laws the power of removing and punishing in a summary way persons guilty of distracting their proceedings ; but they possess at common law only such power over contempts as are necessary to the proper exercise of the functions which it is intended they shall execute. The Legislative Council contends that there is no analogy between the Imperial Parliament and the Parliament of South Australia ; and that, even if there were, no arguments drawn from analogy could upset and override the express provisions of a written law ; nor could such analogy either create or transfer to the Parliament of this province the privileges which appertain to the Imperial Parliament. 4. The Legislative Council considers, therefore, that the question at issue between itself and the House of Assembly can be decided only by reference to the Constitution Act, to which both

Houses owe their existence, and from which they claim their powers. 5. Considering the first section of the Constitution Act, the Legislative Council is of opinion that, viewing it apart from the proviso it contains, the powers and functions given by that section to the Legislative Council and House of Assembly are equal; and the Legislative Council sees no reason to construe the word *originate* used in that proviso in other than its ordinary etymological sense. Such construction of the word *originate* is in the opinion of the Legislative Council borne out by the general tenor of the Act, but more especially by section 28, which empowers the Governor to amend Money Bills, from which it is clear that in originating such Bills the House of Assembly does not derive the right of exclusively dealing with them.* 6. The Legislative Council therefore considers that it has, in at once admitting the exclusive power of the House of Assembly to originate Money Bills, recognised the only peculiar and distinguishing function vested by the Constitution Act in that House. 7. The Legislative Council considers that the Constitution Act clearly demonstrates that the powers of the South Australian Parliament should be limited to the powers possessed and exercised by the Commons House of Parliament,

* This power is given to the Governor in express words, which is not the case with the Legislative Council; and in the American Constitution Act the power of altering Money Bills is given in express words, without which it is evident the framers thought the word "*originate*" denied to the senate such power.

with authority to the South Australian Parliament to determine and define the powers, privileges, and immunities to be respectively held, enjoyed, and exercised by the Legislative Council and House of Assembly—always excepting the power of originating Money Bills, which by the 1st section is vested in the House of Assembly. 8. The right exercised by the Commons House of Parliament of originating Money Bills, and of excluding the Lords from modifying or altering them, was founded upon the elective Chamber as being the representatives of the whole body of the people, and thereby contradistinguished from the Lords as an hereditary body, and was claimed as a Parliamentary privilege, and not as a right at common law. The Legislative Council and the House of Assembly being both elective bodies would equally claim the right exercised by the Commons House of Parliament, provided such right was inherent by law in every representative Legislature, and was not one of privilege, and established by usage and custom. 9. Although no arguments drawn from analogy could be of use in the present difference between the Houses, yet the Legislative Council cannot but point to the proviso in the 35th section of the Constitution Act, as an express denial that there can or shall exist any analogy between the House of Lords and the Legislative Council in so far as privileges, immunities, and powers are considered. 10. All analogy between the British Parliament and

the Parliament of South Australia is also repelled* by the 28th. section of the Constitution Act, which gives the Governor power to transmit by message to either House any amendment which he shall desire to be enacted in any Bill presented to him for Her Majesty's assent; and it cannot be denied that all Money Bills must be presented. 11. In order to avoid as much as possible any further misunderstanding between the two Houses of Parliament in reference to Money Bills, the Legislative Council would suggest that the adoption by the House of Assembly of the 3rd, 4th and 5th resolutions passed on August 25th last by the Legislative Council (without prejudice to the rights of either House, but as a matter of expediency) would tend to facilitate and to forward the conduct of the business of each House, and to the advancement of public interests, until the powers and privileges of each House should be determined and defined by the Parliament of this province." (See Parliamentary Debates, September 22nd, 1857, and also Votes and Proceedings of House of Assembly.) On October 14th, 1857, on the motion of the Attorney-General (Mr. Hanson), seconded by Mr. Torrens, a committee consisting of Messrs. Torrens, Blyth, and himself, was appointed to take into consideration the reasons offered by the Legislative Council on the sub-

* The analogy between the two Parliaments is complete, but the argument does not apply with the same force to denial of analogy between the House of Lords and the Legislative Council.

ject of privilege. The report of this select committee was brought forward and discussed on November 17th. After some debate it was agreed to, and ordered to be forwarded to the Legislative Council.

The reasons adopted by the House of Assembly on this occasion were as follows, viz.:—"1. The House of Assembly admits that no argument drawn from analogy can upset or override the express provisions of a written law; and if there were any express provisions in the Constitution Act conferring upon the Legislative Council the powers for which it now contends, the House of Assembly would at once cease to protest against their exercise. 2. The House of Assembly further admits that the first section of the Constitution Act, viewed apart from the proviso it contains, gives equal powers to the Legislative Council and to the House of Assembly, and that consequently the relative powers of the Legislative Council and the House of Assembly must be decided by reference to that proviso; but it conceives that in ascertaining the meaning of that proviso, since its language has not received any legislative or judicial interpretation, the Legislative Council and House of Assembly must be influenced by a reference to reasons drawn from analogy, and to the practice and privileges of the Imperial Parliament, and that those reasons and that practice are conclusive in favor of the view of its privileges taken by the House of Assembly. 3. The House of Assembly cannot admit the assumption of the Legislative Council--

that there is no analogy between the Legislative Council and the House of Assembly in this province on the one hand, and the House of Lords and the House of Commons in the United Kingdom on the other. On the contrary, it conceives the existence of this analogy to be apparent under almost any aspect, and to be shown even more conclusively by the very exception to which the Legislative Council in its reasons refers, since there could have been no motive for limiting the privileges of both branches of the Parliament of South Australia to those possessed by the House of Commons, had there not been an analogy between the Legislative Council and the House of Lords which might otherwise have suggested a claim of some of the privileges of the latter body. 4. The House of Assembly further contends that the right of the House of Commons to originate Money Bills was claimed by that House, and has always been allowed by the Crown and the Lords as a common law right; and that the claim of the House of Commons of excluding the House of Lords from modifying or altering such Money Bills was asserted as a Parliamentary privilege inherent in and flowing from that right; and that inasmuch as the Constitution Act vests in the House of Assembly the exclusive right of originating Money Bills, the right to exclude the Legislative Council from modifying or altering these Bills is by direct and necessary implication also conferred. 5. That in order to facilitate the conduct of public busi-

ness this House of Assembly, while asserting its sole right to direct, limit and appoint in all Money Bills the ends, purposes, considerations, conditions, limitations and qualifications of the case, or appropriation by such Bill imposed, altered, repealed or directed, free from all change or alteration on the part of any other House will, nevertheless, for the present adopt the 3rd, 4th and 5th resolutions, as agreed to by the Legislative Council on August 25th, 1857, and forwarded to this House by message on that day." (See Parliamentary Debates, No. 17, 1857, p. 655.)

The question was so far settled by the agreement of of the House of Assembly to the foregoing reasons, and has remained undisturbed since, although neither House yielded its position. The 5th resolution agreed to by the House of Assembly on November 17th, embodied the concurrence of the House in the resolution moved by the Chief Secretary (Mr. Baker) in the Legislative Council on August 25th, which was in these words:—"That it shall be competent for this Council to *suggest* any alteration in any such Bill (Money Bill); and in case of such suggestion not being agreed to by the House of Assembly, it shall be referred to this Council for reconsideration, in which case the Bill shall either be assented to or rejected by this Council as originally passed by the House of Assembly." But as it is important to clear this question of all doubt, I have consulted the records of the Votes and Proceedings of the House of Assembly.

In Parliamentary paper, No. 92, ordered by the House of Assembly to be printed July 11th, 1877, I find the full version of the third, fourth, and fifth resolutions as agreed to by the Legislative Council on August 25th, 1857, and adopted by the House of Assembly on November 17th, 1857, and I here give them in full to make the record complete. These resolutions, forming part of the fifth reason of the House of Assembly, should be read in continuation of the five reasons of the House passed on November 17th and communicated by message to the Legislative Council as recorded in the Legislative Council proceedings of November 19th, in the following terms:—"The President announced that he had received from the House of Assembly message 38, conveying the reasons of the House in answer to the reasons of the Council. The reasons would be entered on the records of the House." Tenor of the third, fourth, and fifth resolutions of the Legislative Council passed in the House on August 25th, 1857, and agreed to by the House of Assembly on November 17th, 1857 (stated in italics to call attention to them). 3rd. *That this Council further declares its opinion that all Bills—the object of which shall be to raise money, whether by way of loan or otherwise, or to warrant the expenditure of any portion of the same—shall be held to be Money Bills.* 4th. *That it shall be competent for this Council to suggest any alteration in any such Bill (except that portion of the Appropriation Bill that provides for*

the ordinary annual expenses of the Government); and in case of such suggestions not being agreed to by the House of Assembly, such Bills may be returned by the House of Assembly to this Council for reconsideration—in which case the Bill shall either be assented to or rejected by this Council as originally passed by the House of Assembly. 5th. That this Council, while claiming the full right to deal with the monetary affairs of the province, does not consider it desirable to enforce its right to deal with the details of the ordinary annual expenses of the Government. That on the Appropriation Bill in the usual form being submitted to this Council, this Council shall, if any clause thereon appear objectionable, demand a conference with the House of Assembly to state the objections of this Council and receive information (see Council paper, No. 14). The resolutions were originally moved and carried in the Legislature by the Honorable John Baker, who had just been appointed Chief Secretary in succession to Mr. B. T. Finniss. Thus ended the threatened collision between the two Houses of Parliament, and I trust I have give a full report of that celebrated privilege question which affected the relative powers of the two Houses with respect to the mode of dealing with Money Bills. And here I might conveniently bring this chapter, and this work with it, to a conclusion, as I proposed only to give the constitutional history of South Australia down to the close of the year 1857, when the new Constitution

introduced in October, 1856, had been on its trial with Responsible Government during the first session as a Parliament. But I cannot close this subject without recording in history the name of the first Speaker, Sir George Strickland Kingston. To his perseverance in 1853 South Australia is indebted for the disallowance of the Parliament Bill of that year, which would have given us a nominated Upper Chamber or Legislative Council in place of a Parliament of which both Houses are elective — one representing, through universal suffrage, the will of the community as a whole; the other, constituted in the interests of property, being elected by a body of voters limited in number since they require to be property-holders under a definite property qualification. Their special function is to be the guardians of property, and in order to this they have the power to reject absolutely any Money Bill, though the Assembly denies them the right of dealing with such Bills by alteration or amendment. The original Bill introduced by Sir Richard MacDonnell was a copy of the Act of Tasmania, supplied to him by the Secretary of State for the Colonies — a somewhat strong hint that such a Bill, if adopted in South Australia, would meet with favor at Downing-street. This Bill submitted to a Legislative body summoned specially to frame a new Constitution on more liberal principles than were embodied in its own Constitution, contained provision for the establishment of a Parliament, to consist of two elective

Chambers, having concurrent and equal powers of legislation. There was a strong Conservative party in this Council and in the Government supported by the Governor, Sir Richard MacDonnell, as I think the occurrences I have related serve amply to show. The Governor's first scheme of one Chamber, submitted through the *Gazette* to the constituencies, did not meet with the approval even of the Conservative party, still less was it regarded with favor by the Liberals or Democrats, as I must call them, because their action by universal suffrage brought Democracy into full power. The Conservatives perceived at once that there was a constantly increasing popular tendency amongst the community at large, and that therefore the suffrage, if not at first universal, must gradually become so, by the very effect of the appeals of candidates to the voters, whom they must invoke to place them in power as representatives. The contests of rival candidates for seats in a popular Legislature are invariably between two classes of politicians, the Conservatives and the Liberals—the former satisfied with things as they are, the latter looking to material progress, as tending to their advance in the social scale. Both equally desirous of power—the one to protect the interest of capital, the other to protect the interests of the producers of capital—it is evident that the holders of property would always be in a minority in proportion to the extent of their wealth; and therefore in addressing the electors they find it to

their interest to gain the Liberal votes by proposing reforms in government which are to ease the payments of the taxpayer, or holding out hopes of improving their condition by promoting projects for the furtherance of industry. Every voter who is not satisfied with his position or prospects, expects to better his condition by conferring power on some one who has ability and capital to advance the general prosperity ; and one of the means of progress he deems to be the possession of political power. Hence candidates have in most instances to call themselves Liberals in promotion of such hopes. The result is that the people—that is the Democracy—are continually gaining influence, and no man, be he ever so wealthy, can hope to obtain and retain political power unless he not only professes but acts in the full determination to use his influence and his power to promote the general advance of the community in wealth by such measures as shall tend to its distribution, not amongst any particular class but amongst those who have raised him to power by their votes, and who, under the present political and commercial systems, are not receiving their just share of the increasing wealth of the State. This may appear a digression, but it is really necessary to find the clue to the events that produced for us, as their consequence, the free Constitution we enjoy. And I have coupled the name of Sir George Kingston with this advance in our political system. He it was who, by petition to Her Majesty, brought about the fresh

consideration which our political privileges underwent in 1855. He it was who, with prompt determination, put himself in front of the battle of democracy, and brought about the defeat of the Conservative party. The celebrated privilege question of 1857 had its germ in the amendments proposed by him in the first Constitution Bill, and carried through his earnestness in the popular favor. He it was who moved the proviso of the first section of the Constitution Act—"That all Bills for appropriating any part of the revenue of the said province, or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the House of Assembly." He it was who assisted in passing every clause in the Act that was necessary to the full development and successful working of Responsible Government, which alone means self-government. Sir George Kingston left England as one of the first surveying expedition; indeed, he was second in command. He brought with him his radical principles, and he was one of the few pioneers who holding such opinions in England kept hold of them in South Australia. He was a man in whom the love of political liberty was genuine. Impetuous, headstrong even to obstinacy, he was, at the same time, earnest in his efforts to gain for South Australia the boon of self-government; and, withall, one of the few unselfish men who, without fear of the consequences, worked out his resolves.

Responsible Government was inaugurated and fully tested during the year 1857. In that year four different Ministries successively assumed the command of power, as I have previously mentioned. The fourth change occurred on September 30th, 1857, under the leadership of the Attorney-General, Mr. (afterwards Sir) Richard Davies Hanson, and he held his cabinet together until May 9th, 1860, a longer life than was enjoyed by any Ministry, except that of Mr. Bray, who took office as Chief Secretary on June 24th, 1881, and retained it until April 23rd, 1884—a period of three years and eight months. Sir William Morgan's comes next in the list of long-lived Ministries. He took office on September 27th and held it until March 10th, 1881, making up a duration of two years five months and thirteen days. I am indebted to the records printed under direction of the clerk of the Legislative Council, Mr. F. C. Singleton, and compiled by him for the above and following information. In the twenty-eight years ended in 1884 there had been thirty-three changes of Ministry, giving an average duration of each as little more than ten months. During the same period seventy-one different members of Parliament had held office in some one or more of these several Ministries. Such repeated changes have been injurious to the public interests, but it is the price paid for self-government, and we may fairly hope that past experience will in time lead to more permanent forms of government. Ambitions have

been aroused, and it is not surprising when, in a Parliament numbering, until late returns, only fifty-four individuals in both Houses together, seventy-one individuals have tasted the sweets of office that there should be some even factious opposition among so many aspirants for the highest offices in the country. One part of the remedy will be found in increased numbers of members of Parliament, which must add to the roll of those who have little hope of *being sent for* or of joining a cabinet which contains few prizes. Public virtue will grow out of the impossibility of obtaining a seat in Cabinet, and members, unless they become corrupt, which is scarcely to be feared while public elections are so frequent under a three years' duration of Parliament, and so careful a watch is held over the conduct of members. The next chapter, and, I hope, the concluding one of this little work, will take an account of the material progress at the present date (1883), and a comparison can then be instituted to show to some extent the advance that has been made by a people governing themselves: I shall at the same time draw attention to the interesting fact that during the first session of the first Parliament of South Australia, the colony attained its majority. The ceremony of celebrating the auspicious event took place in the presence of Sir Richard MacDonnell, on December 28th, 1857, just twenty-one years from the foundation of settlement in 1836. But to complete the proceedings in Parliament after the

settlement of the privilege question, which I have detailed at so great length, the reader who may have accompanied me thus far will perhaps recollect that on November 19th the privilege question was finally brought to a close during the Ministry of Mr. Hanson. At that period of the session the two Houses were getting weary of debates, in which the chief subject was to determine their own powers, and under the strong Government then established proceeded to work out the various problems of legislation, of which notice had been given from time to time. Mr. Hanson, after settling the privilege question, induced Parliament to pass several useful measures, including the Appropriation Act to authorise the expenditure for the year 1858, and felt himself in a position to advise a prorogation on January 27th, 1858. On that day, accordingly, His Excellency Sir Richard Graves MacDonnell proceeded with his suite to the Legislative Council Chamber, attended by the President, the Speaker, and members of the Legislative Assembly. After giving his formal assent to fourteen Bills which had passed both Houses, he informed the Parliament that he had reserved for the signification of the Queen's pleasure three Bills, viz.—1. A Bill to legalise a marriage with a deceased wife's sister. 2. A Bill to prevent the introduction of convicted felons to the colony. 3. A Bill relating to aliens. His Excellency then addressed the assembled Parliament in the following words :—“ Honorable Gentlemen of the Legislative

Council, and Gentlemen of the House of Assembly—

1. In closing the first session of the first Parliament of South Australia, I congratulate the Legislature and the people of this province on the successful working of the principle of Responsible Government. Although we have experienced some of the difficulties necessarily incident to the introduction of an entirely new system, yet these have scarcely impeded the course of legislation, and have not prevented you from maturing a series of measures highly important in their provisions, and, I trust, useful in their tendency. Gentlemen of the House of Assembly—2. I thank you for the supplies which you have voted for the public service, and I assure you that in their expenditure due regard shall be had to economy, so far as may be consistent with the attainments of the objects for which those supplies have been voted. Honorable Gentlemen and Gentlemen—3. I have received the resolution which you have separately adopted on the subject of the proposed federation of the Australian colonies, brought under your notice in a message from myself; and I trust that the action which you have taken on this important point may lead to the immediate adoption of measures calculated to remove the existing obstacles, to combined action on the part of the colonies, whenever circumstances may permit or require it. 4. The Act which you have passed for contributing to the subsidy to the Ocean Mail Postal Service has removed the difficulties which at one time obstructed

our communication with Great Britain; and I hope when I again meet you to congratulate you on the completion of the arrangements for the mail steamers calling in their homeward route at least at Kangaroo Island, thus enabling us to enjoy in some degree the advantages of our geographical position. 5. Of the Acts which have been forwarded to me for my assent, I have reserved three for the signification of Her Majesty's pleasure; one for the amendment of the marriage law, in accordance with an address of the Legislative Council; a second relating to aliens; and the third to convicts landing in South Australia from the neighboring colonies. These Acts might be held to affect the Royal Prerogative, and therefore I could not in accordance with my instructions give the Queen's assent to them. I hope, however, that such assent will not be withheld. I trust the alterations which you have made in the laws of the colony, especially in those which relate to real property, may realise the expectations of their promoters; and I rely upon your wisdom and candor to remedy whatever defects further experience of their practical working may disclose. At the same time, although I have been happy to comply with the obvious and generally expressed wish of the Parliament and the country in giving the Queen's assent to the Act 'to simplify the laws relating to the transfer and encumbrance of freehold and other interests in land,' I cannot but feel that a portion of that Act—viz., the 35th section, which contemplates a

contingent appropriation of a portion of the revenue of the province—a provision which was not initiated by myself as Governor—is so far wholly inoperative and will require, therefore, to be made effective by future legislation. 7. In conclusion, I most heartily congratulate you, honorable gentlemen and gentlemen, on the generally sound and prosperous condition of this province, notwithstanding the severe financial crisis which is now being felt in all the most important monetary centres of the world. We cannot hope altogether to escape the effects of this general disturbance; but I trust that when we next meet it will be found that the energy and prudence of the producing and mercantile classes of this province will have enabled us, under that Divine Providence which has hitherto so signally blest the industry and protected the growth of this community, to pass through the necessary period of trial with unimpaired resources and credit. I now declare this Parliament to be prorogued until the first day of May next.—RICHARD GRAVES MACDONNELL, Governor-in-Chief. January 27th, 1858.”



CHAPTER XIV.

Comparison of Statistical Reports on condition of Colony in 1857 and 1883—Remarks on a Secular system of Education by the State—Majority of the Colony attained on December 28th, 1857—Cere-
monial attended by Sir Richard MacDonnell at Glenelg—Proposal to erect a durable pillar of marble in commemoration of the foundation of South Australia—Conclusion of this Work.

IT will naturally occur to many minds who read the history of Responsible Government to inquire what has been the gain to the province of so much struggling for constitutional privileges? A comparison of the financial, material and moral condition of South Australia in recent times with its position in similar respects in the year 1857 will lead to a solution of the problem. During the year 1857, when self-government was fully established, the old system prevailing in all Crown colonies of publishing an annual Blue Book for the information of the Imperial Government was in operation. After the establishment of self-government it gave place to statistical records, compiled with great care by the Local Government, in which the principal facts connected with the progress of the community were collected and published for general information. I have fortunately, therefore, the means of placing before the reader statements based on the best official returns, by which the condition of

the province in all essential matters will be given, to enable a comparative view to be taken of the advance made in the twenty-six years ending in 1883, since the inauguration of the Constitutional system. Later returns than those published in 1883 are scarcely yet complete, and therefore I have taken the latest that supply the requisite information. The results are tabulated so as to show at a glance the requisite information for comparison.

COMPARATIVE ABSTRACT OF THE STATISTICAL REGISTERS IN 1857 AND 1883, SHOWING THE PROGRESS OF THE COLONY DURING THE INTERVENING PERIOD.

| Heads of Information. | Condition of the Colony in the year ended 1857. | Condition of the Colony in the year ended 1883. |
|---|---|---|
| Population | 109,917 | 304,515 |
| The total area of South Australia... | — | 578,361,600 acres |
| Total land alienated in acres ... | 1,758,705 | 10,153,690 „ |
| Difference, being the quantity alienated during the elapsed interval of 26 years | — | 8,394,985 „ |
| Total land alienated in Northern Territory in addition to the above | — | 448,210 „ |
| The total quantity in the whole province alienated to end of 1883 | — | 10,641,900 „ |
| Remains open to occupation ... | — | 567,759,700 „ |
| Land under cultivation, in acres ... | 235,965 | 2,754,560 „ |
| No. of Horses | 26,220 | 161,360 |
| „ Cattle | 310,400 | 319,620 |
| „ Sheep and lambs | 2,075,805 | 6,677,067 |
| General revenue of the province ... | £451,525 19 2 | £2,060,139 13 10 |
| Customs duties included in revenue | 151,667 4 11 | 614,356 13 11 |
| Expenditure on public works ... | 398,322 3 10 | 2,113,189 5 8 |
| Bonded debt | 633,455 5 0 | 13,308,160 5 0 |
| Interest and repayment of bonded debt | 33,742 19 6 | 515,814 11 10 |

| Heads of Information. | Condition of the Colony in the year ended 1857. | Condition of the Colony in the year ended 1883. |
|---|---|---|
| Waste lands under lease, in square miles | 24,000 | 49,008 |
| Imports valued in colony | £1,623,052 5 0 | £6,310,055 0 0 |
| Imports retained for home consumption | 1,408,664 5 0 | 4,914,421 0 0 |
| Exports, value in foreign market | 1,958,572 0 0 | 4,883,461 0 0 |
| Import and export trade combined | 3,581,624 0 0 | 11,193,516 0 0 |
| Exports, the produce of the colony | 1,744,184 0 0 | 3,487,827 0 0 |
| Length of lines of railway open April 21st | 7 miles 40 chains | 996 miles 54 chains |
| Total cost of construction of existing lines of railway, rolling stock, way, works, buildings, machinery and plant | £586,800 7 6 | £6,947,718 4 11 |
| Total cost of railways, excluding unfinished lines—rate per mile of do., £6,750 | — | 6,706,518 0 0 |
| Net revenue of completed lines over working expenses—2·58 per ct. on cost | — | 164,162 19 6 |
| Number of miles of telegraph opened | — | 5,278½ |
| Average liabilities of nine banks last quarter of year | — | £5,306,595 4 10 |
| Average assets do., do. | — | 11,868,024 17 4 |

South Australians who have accompanied me thus far in my narrative of events between the years 1836 and 1883, will have no reason to doubt that during the twenty-six years elapsed since the adoption of Responsible Government the powers of self-government have contributed to the advancement of the general prosperity and growth of wealth in the colony. The population has increased threefold; the general revenue more than fourfold—commencing in 1857 with hundreds of thousands it was stated in

1883 by millions of pounds sterling. The land acquired in fee simple by the increased population reached the enormous quantity of 8,394,000 acres; whilst the area of cultivation expanded from 235,965 acres in 1857 to 2,754,560 acres in 1883, a result attained not merely from the augmented numbers of the population, but by the spreading of this population over remote districts, and showing, as well, the distribution of increased capital, as judicious land laws were enacted for the encouragement of agriculture. The value of goods purchased in the foreign market, and paid for by the produce of the lands, had increased from £1,623,052 to £6,310,055. The trade of the province, represented by the sum of its imports and exports, had reached from £3,581,624 in 1857 to the amount of £11,193,516; here again exceeding the proportionate increase that would be due to increase of population alone. To add to this favorable picture, and no doubt partly contributing to it, facilities for moving these goods to and from the different markets by land on locomotive railways, independent of main roads, had been created to the extent of nearly 1,000 miles; and messages, in reference chiefly to the business transactions involved, were now carried over 5,278 miles of telegraph lines. Both these astounding results had been the growth of twenty-six years, during which South Australians regulated their own business transactions, and their own public revenues and expenditure. It may be said, as the obverse side of

this picture of material progress, that in 1883 the Parliament of South Australia had a bonded debt of £13,308,160, requiring an annual payment to the foreign creditor of £515,814. But the foreign bondholder can view with satisfaction 1,000 miles of railway, the net produce of receipts from which already reached, in that year, £164,162 over the working expenses, being at the rate of 2·58 per cent. on cost of construction and additional requirements. (See Statistical Register of the Province for the year 1883, part iv. p. 123.) And the South Australian foreign creditor will take note of our local telegraph lines connecting Adelaide at Port Darwin, on the north shore of the Continent, with Europe and the rest of the world. This line of telegraph wire was constructed chiefly through the enterprise of South Australian statesmen. After receiving European messages at Port Darwin, brought by ocean electric cable, it traverses the continent of Australia from north to south. Inland through the formerly mysterious centre of the continent it supplies the districts of South Australia with messages from Europe, over 8,824 miles of wire opened,* paying into the South Australian exchequer £70,113 17s. 2d. annually at present. The gross money value of international messages amounts to £251,277, and £27,510 5s. 7d. represents the share of South Australia included in the total receipts of her telegraph lines

* See Statistical Register of South Australia, 1883, part iv. p. 125.

which has been stated above at £70,113 17s. 2d. At present (that is taking the result from the statistical returns in 1883) the postal and telegraph systems are working at a loss, combined, of £18,021,* because the South Australian Government take more care of the commercial profits created by these systems of intercourse than of the gains to the public revenue. This loss is probably already converted into profit, but the system is one of the sources of prosperity which the foreign creditor no doubt duly estimates. The published banking returns show that, at the close of 1883 the averages of the last quarter, stated by nine establishments in the colony, the deposits of their customers amounted in the aggregate to £4,648,618 2s. 1d., and the assets of the same banks to £11,868,024 17s. 4d., of which total £840,776 3s. 8d. was held in coined gold and other metals, and £11,108 2s. 7d. in gold and silver bullion or ingots; the assets comprised also £25,000 in Government securities. A community that possesses in cash in the banks the sum of £4,648,618, and exported produce of its own to the value of £3,487,827 in exchange for goods imported for home consumption valued at £4,914,421, may be said to be in a prosperous condition, taking into estimation, also, wealth represented by its flocks and herds, with farms under cultivation to the extent of 2,754,560 acres and vast pastoral resources. A foreign

* See Statistical Register of South Australia, 1883, part vi. Rev. and Exp. p. 7.

debt of greater magnitude than thirteen millions, not wasted in wars but invested in permanent and profitable public works, such as railways, to the extent, as stated, of £6,947,718, whilst the remainder is still contributing to general progress through equally useful improvements instead of weighing unduly upon the resources of such a community is indirectly contributing to its material advancement. Nor can our legislators look without pride upon the signs of moral and intellectual culture, illustrated in the building of eight hundred and sixty-three churches and chapels, capable of accommodating 180,556 persons of the several religious denominations, who by voluntary contributions support their own clergy without State aid—a principle repudiated hitherto in South Australia. Responsible Government, meaning self-government in the widest sense, may exult in the fact that the future moral and intellectual development of the people has been provided for by large sums paid by the State in aid of secular education, taught by 951 disciplined teachers of both sexes, who instructed 41,437 children during the year 1883 in the elements of useful knowledge. Substantial and even elegant structures may be seen throughout the colony, built with every regard to health and usefulness, to accommodate teachers and pupils; and large endowments of public lands are set apart to lessen in the future, when they become profitable, the cost of this education to the Treasury. The Act of Parliament which regulates this educational

system makes no provision for religious instruction by paying either its secular teachers or ministers of religion for this special object, or permitting religion to be taught during a certain number of school hours. But the large and able body of clergy are afforded every facility for imparting denominational religious education at other times. There being no State Church establishment in South Australia, that is the Church of England being disestablished within its jurisdiction, all religious teachings must necessarily be denominational, as the Christian religion is not by law specially united under one State Church system, but is divided amongst separate associations having their own churches agreeing only in professing a common Christianity, based on the Bible. It is argued by those who support this secular system of State Education, that it is not the function of the State to teach religion. Even the late Bishop Short, of the Anglican Church, in his pastoral address to the Diocesan Synod in 1880, whilst condemning the Government for their neglect of religious teaching in the public schools, by observing that "the State Education if Theistic is not Christian," was constrained to add on the same occasion, "Certainly it is not the mission of the civil power to make known the gospel to the 'lambs of Christ's flock;' yet so far as practicable, it is wisdom to give help to its being done. Sound religious teaching will repress crime and prevent vice; but how shall the children hear without a teacher?" I cannot but

add, would it be just to pay clergy out of the public Treasury for doing so, unless under a uniform system of teaching which would be recognised by all denominations as in accordance with the doctrines they held, and this would really mean a State religion. Is this possible? To me the question resolves itself into this point—If the State is to teach religion, or pay the clergy to do so, which is the same thing, what standard is to be adopted? The State must teach the truth, and to do so must ascertain the truth amid the conflict of opinions. It must adopt some *uniform system and compel obedience*. In other words, the State must persecute for conscience sake; otherwise by universal tolerance it must leave the various religious denominations to their efforts, without neglecting its own duty, which is clearly such a moral and intellectual training as will fit the child for the duties of citizenship in adult age. No man in a free community should be taxed to support what he deems error in sectarian teaching or doctrine. Moral teaching and religious teaching although considered in times past, and even by many now, to be in such close connection as to be identical, are not essentially so. Of all the religions of the earth Christianity is deemed the most moral in its teaching; yet this moral code was not the offspring of Christianity. All its most valuable precepts came from antiquity, and were adopted by the early Christians from maxims which the development of civilisation had proved to be

necessary to national progress and existence. These maxims collected by the Hebrew prophets in the sacred books of the Old Testament, with some others enunciated by the sages of Egypt and Greece, formed the body of the principles of Christian morality. The discipline and organisation of the Christian Church improved these maxims in the alembic of time ; and the experience of eighteen hundred years has gradually refined and adapted the primitive Christian morality to the requirements of an advancing civilisation. The morality thus adopted and codified by the Christian Church, serves now as the rule of social conduct in well-ordered communities and nations, apart from the influence of religious convictions which aim at a preparation for a future state of existence after death. Hence the best moral teaching may be, and ought to be imparted in public schools, and this would embrace all that is useful in fitting men for their duty to humanity. I have now approached the limits within which I propose to close this imperfect sketch of the constitutional history of South Australia. But as the colony attained twenty-one years of progress on December 28th, 1857, and so may be said to have arrived at its majority, in the very year in which Responsible Government was completely inaugurated, I shall not conclude without reference to the interesting demonstration observed on that day, and fully recorded in the *Register* of January 5th, 1858.

It is a singular circumstance, worthy of note, that on her twenty-first anniversary, on December 28th, 1857, South Australia had fully achieved Constitutional Government, the first Parliament exercising the privilege of self-government being then in its first session. Those who founded the colony in England, and the early settlers, had in view the formation of a community with peculiar privileges, suited to the advanced liberal principles in the mother country. In the first chapter of this work it was pointed out that one element of progress was signified when its promoters obtained from the Imperial Parliament its sanction in favor of early self-government by the provision in the Act that when the settlers numbered 50,000 persons they should be entitled to claim the advantages of a Legislative Assembly. The convict question, too, had been set at rest by the exemption, fully stated, that the convict system should never be applied in South Australia; and at the same time the religious source of discord and intolerance—a State religion, specially protected and privileged by law—was sought to be prohibited; no church establishment was to be connected with the State in the new colony, and universal equality and toleration were to prevail, affording full freedom to religious convictions, and complete exemption from taxation or State endowments for religious purposes was to be included in the charter of political privileges. This point was not, however, carried into effect in the first Act for the

government of the colony; but so strong was the feeling in the colony during the administration of Governor Robe, that the Imperial Government were compelled to yield the point; and so continuously and strenuously was the principle of religious freedom asserted, that in 1855, when the Constitution Act was framed, the clergy of all denominations were disqualified from becoming members of the Legislature. This disqualification was not aimed solely at the Church of England, but it was extended to what in England are called the nonconformist clergy, it being the fixed resolve with the members of the Legislative Council who framed the new Constitution, that religious domination, whether episcopalian or nonconformist, should never influence or control the course of political liberty, so much had the intolerance of religious organisation in the United Kingdom during recent periods of history aroused in the minds of those forming the South Australian community feelings of fear and apprehension. Now that the Church of England has been denied any special legal status in the province, those who assisted in bringing about this condition find that a difficulty has arisen in the educational question which was entirely unforeseen, and State aid to education is found to have some relation to State aid to religion. One of the leading nonconformist clergy, who was foremost in deprecating State aid to religion, and some other denominational clergy, now consider that religious teaching in the public schools of the province becomes the duty

of the State. There are 863 places of worship in the province, capable of accommodating on the average each 200 persons. There are probably no less than 863 clergy to officiate in these churches, allowing only one to each place of worship. Their influence over their congregations must be assumed to be great, since otherwise the stipends of the clergy would fail to be provided by voluntary contributions and by the fees resulting from births, deaths and marriages, to a sufficient extent. Any falling away from religious attendance must seriously impair the revenues of the clergy. Hence there exists the most powerful motive in human nature to prevent the spread of irreligion, which, no doubt, unconsciously biases and influences the action of the clergy in their objections to a purely secular education. If they were unanimous their point would be gained, and the religious education of all children, for which they would claim remuneration, would fall into their hands, since the State cannot instruct its secular teachers to impart religious tenets, leaving it optional with them to inculcate their own special views of doctrine. The Government would therefore be impelled either to leave the work of religious instruction to the united-denominational clergy, or to furnish religious formulæ for the guidance of its secular teachers. This would be simple enough with a Church Establishment accompanied with intolerance of non-conformity. Alas ! the freedom to worship God under any teacher who can sway the faith of a

sufficient number of persons to afford him the means of living, which is the only alternative to a State Church, renders it impossible for Christian clergy to combine for the purpose of securing State paid religious education. That this want of union of sentiment and action exists is demonstrated by the fact that a strong party amongst the laity, influencing the clergy, have brought about the result formulated in the Education Act which is now law ; and through the operation of which the State educates the people in all the learning that is necessary to material and moral progress, leaving to the clergy the task of keeping alive and directing the religious sentiment which is to prepare man for a future state of existence. I have been led into this digression in order to account for the peculiar position which the Christian Church occupies in South Australia, and which it has maintained for nearly fifty years. That, under such circumstances, we have made unusual advances in freedom and prosperity, must avail something in the argument against the alleged imperfection of our educational system.

South Australia, as a province, attained majority on December 28th, 1857, both in the number of years of her existence and in the number of years within which she attained the inestimable privilege of self-government. It was a strange coincidence. It shows, amongst other things, that the British nation are fitted for colonisation since no other instance is on

record of a community springing from a nucleus of only 546 emigrants, in twenty-one years, to number more than 100,000 souls who had conducted themselves so as to have become capable in that time to govern themselves. In the *South Australian Register* of January 5th, 1858, will be found a complete and interesting record of the festival which took place in commemoration of the day when South Australia had completed the twenty-first year of her existence as a British settlement, at which Sir Richard MacDonnell attended and assisted. I cannot do better than give the account exactly as it appears in the public press, and I make no apology or excuse for the length of the quotation, since the event marks a prominent era in colonial history, and its description will serve to enliven a narrative which, although useful to the studious in the art of government, can scarcely afford much interest to those who read for amusement rather than instruction.

MAJORITY OF THE COLONY.

The long-anticipated festival in commemoration of the majority of South Australia took place on Monday, December 28th, at Glenelg, the place where the colony was first proclaimed. Up to ten o'clock the weather, upon which everything depends on such an occasion, was propitious, and every preparation had been made for the complete fulfilment of the great object of the day. Every vehicle, public and private, everything, in fact, that could afford a means of locomotion, was laid under contribution. For some days previously, indeed, the seats in many of the public conveyances had been engaged for the occasion, so that it was impossible, on the morning of Monday, for hundreds, nay thousands of persons, who had depended upon the chances of the tide, to obtain the means of transport to the scene of the festivities. The road from Adelaide to the Bay, a distance of six miles, was crowded

throughout its entire length with vehicles, horsemen and pedestrians, which were poured into the village in dense and unbroken masses for two or three hours. The pavilion in which the *dejeuner* was to take place had been erected near the sands, in front of Government Cottage, and around it were clustered numerous booths and stalls for the entertainment and refreshment of visitors. The festivity in the pavilion was to be presided over by the Hon. J. H. Fisher, the first Resident Lands Commissioner of South Australia, and now the President of the Legislative Council. It was also understood that His Excellency and Lady MacDonnell would honor the occasion with their presence. The whole of the arrangements were under the direction of a committee comprising a great number of the old colonists and of our leading and influential men. The committee held frequent meetings at Glenelg and in Adelaide, and everything was done that prudence and foresight could suggest to secure the entire and triumphant success of the commemoration. In addition to the *dejeuner*, various sports were determined on, such as horse-racing, foot-racing, sailing matches, rifle-shooting, leaping, putting the stone, &c. There was also to be a special ceremony at the old gum tree under which the colony was proclaimed by Governor Hindmarsh, twenty-one years ago. The land on which this tree stands was the property of Mr. John Hector, of the Savings Bank, and had been generously conveyed by that gentleman to the Mayor and Corporation of Glenelg by a deed, of which the following is a copy:—

“This indenture, made the twenty-eighth day of December, one thousand eight hundred and fifty-seven, between John Hector, of St. Leonard’s, near Adelaide, in the province of South Australia, Esquire, of the one part, and the Mayor, Aldermen, Councillors, and Burgesses of the Town of Glenelg, of the other part. Whereas the said John Hector is seized in fee-simple of and in the piece of land hereinafter described, being the site upon which the said province of South Australia was proclaimed a province of the United Kingdom of Great Britain and Ireland; and whereas the said John Hector is desirous of conveying the said piece of land to the Mayor, Aldermen, Councillors, and Burgesses of the Town of Glenelg, in order that the tree standing thereon may be preserved and protected so long as the same shall exist, to commemorate such proclamation, and afterwards for such other purpose as the said Mayor, Aldermen, Councillors, and Burgesses may think best for the commemoration of such proclamation as aforesaid, and which conveyance the said Mayor, Aldermen, Councillors, and Burgesses have agreed to accept. Now this Indenture witnesseth, that in pursuance of the said agreement, and in consideration of the sum of Ten Shillings of lawful British money paid by the said Mayor, Aldermen, Councillors, and Burgesses to the said John Hector, the receipt whereof is hereby acknowledged, he the said John Hector doth bargain, sell, and release unto the said Mayor, Aldermen, Councillors,

and Burgesses, and their successors all that piece or parcel of land, portion of all that section of land containing one hundred and thirty-four acres, number 184, in the provincial survey marked with the letter B, and which piece of land hereby conveyed is the south-western corner of the allotment number 82, of various allotments into which the said section, number 184, has been subdivided to form the township of 'St. Leonard's on the Sea,' and which said piece of land hereby conveyed is sixty-two feet square, and is more particularly delineated in the plan of the said township, and in the plan in the margin of these presents, and marked 'GC;' together with all rights, members, and appurtenances thereto belonging, and all the estate and interest of him, the said John Hector, therein and thereto to have and to hold the said piece or parcel of land and premises unto and to the use of the said Mayor, Aldermen, Councillors, and Burgesses, and their successors for ever upon the trusts hereinbefore mentioned. In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written."

A brass plate was to have been affixed to the tree by His Excellency the Governor, bearing the following inscription:—

"On this spot, on the 28th December, 1836, the Colony of South Australia was proclaimed and established as a province by Captain John Hindmarsh, R.N., the Governor thereof, acting in the name and on behalf of His Majesty King William IV., in the presence of the chief officers of the Government and other colonists. On the 28th December, 1857, the record of the above fact was here publicly affixed by Sir R. G. MacDonnell, Knight, C.B., Governor-in-Chief of the Province, in the presence of the assembled colonists, to commemorate the event of the colony attaining its 21st year, and to testify their feelings by a day of public rejoicing.—GOD SAVE THE QUEEN."

The plate had been engraved by Mr. Payne, of King William-street, and was a very creditable specimen of the skill of the artist. The Volunteer Artillery, resuscitated for the nonce, gave their services gratuitously to fire a royal salute. Lady MacDonnell very kindly threw open Government Cottage to such as chose to avail themselves of its hospitality. The Brunswick Band had been engaged to play in the pavilion and at the scene of the sports, and all was intended to "go merry as a marriage bell." At a little after 5 o'clock in the morning a salute was fired by Dr. Popham, out of the carronades of the *Buffalo* (the vessel which brought the first Governor to the colony), and which had been lying rusting on the beach ever since. Between 10 and 11 o'clock the visitors to the Bay amounted to about 10,000. The hotels and booths were crowded to excess, whilst numerous groups of happy and gaily-dressed persons were scattered about in various directions, enjoying the invigorating breezes from the sea, and anticipating the amusements which were to follow. The luncheon had been provided by

Mr. Goldsack, of Hindley-street, and was of the most substantial and *récherche* description. The village was a picture of the flags of all nations, and the scene altogether was such as was calculated to excite the imagination and to gratify the sight. This pleasant state of things, however, was not long destined to last. The weather which, for two or three days previously had appeared uncertain, now gave signs of a change decidedly unfavorable to holiday-making, and by 12 o'clock the determined drizzle which had set in, accompanied as it was by the leaden color of sky and sea, plainly indicated a thorough wet day of the good old English sort, and, true to the prognostics of the skies, the rain came down in torrents and continued, with but little intermission, during the remainder of the day. The canvas erections had been made only to screen their tenants from the sun, and were therefore wholly useless as a defence against the watery elements. The result need scarcely be told. Every arrangement was overturned, every calculation was set at defiance. The inns were insufficient to accommodate the crowds of applicants for admission, and thousands were obliged to submit to be drenched to the skin.

The rain did not, however, prevent a large number of persons from proceeding at 12 o'clock to the "Old Tree," with the expectation that the ceremony of affixing the plate would be performed. The venerable relic in question stands about a quarter of a mile from the beach, and is remarkable from having become so bent that the top of the trunk touches the ground, so that it forms a complete arch about twelve feet high, along which here and there are still a few signs of vegetation. In front of this tree there was erected a platform for the performers of the ceremony that was expected to take place. A considerable number of persons, perhaps 80 or 100, including the Rev. T. Q. Stow and other well-known colonists, were in attendance. They were, however, doomed to disappointment; and after waiting for two or three hours in expectation of seeing the Governor, the flag was hoisted in the absence of His Excellency, and a bottle or two was broken by volunteer hands in honor of the occasion.

The outdoor sports commenced, according to programme, at half-past 10 o'clock, but, from the state of the weather, it was impossible to continue them in the order in which they had been announced.

THE LUNCH.

At about half-past 1 o'clock the greater number of persons who had procured tickets of admission to the pavilion had taken their places within its spacious limits. Everything which forethought could suggest or skill accomplish for securing the comfort and convenience of the guests was provided, but the canvas roofing was not waterproof; and as a consequence, not only the company, but a considerable portion of the viands, was saturated with the dripping rain. Every delicacy of

the season was upon the tables ; but, unfortunately, " the pelting of the pitiless storm " had the effect of " dashing the cup of pleasure from the lips " of the numerous guests. Scarcely had the company taken their seats ere the National Anthem, performed by the band, announced the approach of the Governor-in-Chief. His Excellency was accompanied by Lady MacDonnell and a large retinue of the principal colonists, with their ladies. The Hon. J. H. Fisher, President of the Legislative Council, occupied the chair. At the principal table, which extended across the whole width of the pavilion, were seated the vice-regal party, many influential colonists, and a large number of ladies. The numerous guests having satisfied their gustatory propensities, as well as the circumstances of the case would permit.

The Chairman said the toast he was about to propose was one which in every part of Her Majesty's dominions was received with enthusiasm ; it was " The Health of Her Most Gracious Majesty the Queen." Notwithstanding the unpropitious state of the weather, he was sure that the company would cordially drink to Her Majesty's health, with the earnest desire that she might long reign over us.

The toast was drunk with loud cheering, followed by a royal salute, and the National Anthem by the band.

The Chairman again called for full glasses, and remarked that the health of the Queen having been so well received he was certain they would do all honor to that which he was about to propose—" The Prince Consort, the Prince of Wales, and all the Royal Family."

Rule Britannia by the band.

The Chairman then said he was about to propose a toast which he was quite sure would not be less enthusiastically honored than those which had preceded it. It was a toast upon which he could, but perhaps ought not to say a good deal. It was a subject—(here the Chairman was interrupted by the report of a cannon)—evidently worthy of a good report. (Laughter.) It was a subject—(a second gun interrupted the Chairman, and caused great merriment, during which he sat down, and the salute of seventeen guns was given by the artillery on the beach. The Chairman then resumed.)—He thought he was to have fired the great gun on that occasion—(a laugh)—but it appeared that there were others outside who appreciated by inspiration the toast which he was about to propose ; it was " the health of their excellent and most worthy Governor-in-Chief, Sir Richard MacDonnell." (Applause.) It was always a difficult matter when they knew that they could, and that they ought to say a great deal in praise of a person, to be compelled to speak on the subject in the presence of that person. (Hear, hear.) In the presence of His Excellency he could not venture to express his feelings ; but he was confident, however, that each person present sufficiently appreciated His Excellency's character. (Hear, hear.) They all knew him to be exemplary as an individual, and as a Governor everything which they

could desire. (Hear, hear.) He was confident that he only spoke the voice of the colonists when he said that His Excellency endeavored to promote, to the best of his power, the best interests of the colony. They had had a succession of Governors, and he (the Chairman) could speak well of every one of them; but he must say, although he stood in his presence, that none of them had exceeded His Excellency in the estimation of the colonists. Had not the weather been so unfavorable, he was quite sure that a much greater number would have been present to testify their appreciation of His Excellency's character. He did not, indeed he could not, find fault with those who were absent, although he deeply regretted their absence; and he could not trust himself to speak further on the subject, lest he might be carried away by his feelings, and be induced to say more than he intended on rising. He called on the company to fill bumpers, and drain them to "The Health of the Governor-in-Chief, and may he long reign over us."

The toast was drunk with great and reiterated applause.

His Excellency then rose and said—Mr. Chairman, Ladies and Gentlemen—My first and most natural feeling, as you may suppose, would be to thank you for the marked kindness with which you have been pleased to receive my health. My predominant feeling at present, however, is one of regret that the change in the weather should have inconvenienced so many of our fellow-colonists. Notwithstanding the number who have visited Glenelg, there can be no doubt that thousands have been either kept away or disappointed by the rain. If, gentlemen, a new colonist can so feel regret that so many should have been prevented from partaking in festivities intended to commemorate so important an epoch in your history, what must be the annoyance of those who cannot be present? And, gentlemen, I assure you that I do most deeply regret it. (Applause.) South Australia is, however, a colony that has risen superior to many more trying circumstances, and her people have ever exhibited a spirit that enabled them, like Mark Tapley, to be merry under the most adverse circumstances. (Laughter and applause.) If ever there were colonists marked by such a spirit, it is those of South Australia. (Applause.) Gentlemen, twenty-one years is not a long term in the history of a country or a race, but it is a long portion of the life of those who founded a colony—(hear, hear)—therefore its termination furnishes a fitting occasion for commemoration. (Applause.) Yes, I think you do well to commemorate on this occasion the foundation of the colony; such an epoch forms a sort of dividing range—if I may borrow a phrase from the geologists—from which you can look down on one side to the past with something like honest pride, and on the other side with glowing hopes and glorious expectations. (Applause.) Those who can look back on the past twenty-one years can see its history diversified by many a difficulty, encountered manfully and overcome—by many sanguine hopes, deferred, but eventually realised. The first

twenty-one years represented all the struggles incident to a country's infancy ; but now and henceforth it will be incumbent on you to realise the high hopes and assume the resolute bearing of vigorous manhood. (Hear, hear.) Gentlemen, I do not despair in the least of South Australia's deserving as well of public opinion hereafter as she has hitherto done. In looking back through the history of the last twenty-one years, the merchant may recollect his losses and count his profits ; the agriculturist may well, I think, look back with something like surprise at the progress which has resulted in the fact that this young colony has now more acres under cultivation than any of the older Australian colonies. (Applause.) The squatter, whilst remembering the struggles and reverses of early settlement, can point to the result of there being now two millions of sheep and three hundred thousand head of cattle in South Australia—(hear, hear, and applause)—with well-founded expectations of a more rapid increase of stock than at any former time since the colony was founded. Then, with regard to our mineral wealth, we have one mine which produces three thousand tons of copper per annum, varying in value from £100 to £130 per ton—(applause)—of which a great proportion is expended in wages within the colony. Everyone may thus have his own way of looking at the past, and I have mine, which is this, that in proportion as the colony has grown up, and the colonists been blessed with free institutions and complete control of their own affairs, in the same proportion has their loyalty strengthened and their love and affection for their Sovereign become more manifest. (Great applause.) Gentlemen, among the many things from which pleasure can be derived by a Governor there is nothing which gives your Governor greater pleasure and pride than the consciousness that he can honestly speak thus of South Australia. (Applause.) When colonies were founded formerly it was too often to gratify avarice or lust of conquest ; but South Australia stood out a singular exception to the rule on which colonies were founded, whether in the classic days of Greece and Rome, or later, by Spain and other maritime countries. It was the result of an intelligent design, which marked an important epoch in colonisation, and I am happy to be with you to commemorate the success of that experiment. (Applause.) Gentlemen, not an acre was surveyed when the design of your colony was conceived. The peculiar feature of that design was to make the money received for the purchase of land, the means of introducing immigrants to make that land productive, and to construct lines of communication between one point and another. That design has been hitherto more or less steadily adhered to, and I hope it will be long before you abandon the principle upon which your colony was founded and upon which it has flourished. (Hear, hear, and applause.) I might, did the occasion permit, give some statements as to the material progress of the colony—a progress surprising even to my friend on my left (the Chairman), though one of

the most sanguine founders of the colony. As, however, I expect that hon. gentleman will favor you with a *resume* of the progress of the colony it is not necessary for me to dwell on that subject. The duty I have to discharge is to propose a toast with which will be coupled his name as one of that excellent band of pioneers who landed near this spot twenty-one years ago. (Hear, hear, and applause.) Gentlemen, he will give you some account of the progress of the colony; for myself, I so often have to report on the subject to Her Majesty's Government, that I feel glad to be relieved of such details on this occasion by one who can so well and so gracefully in his own person refer to the past and the present—the trials and the triumphs—of South Australia. (Applause.) My friend has himself acknowledged the difficulty of speaking well of a person in his presence, and I also feel that difficulty. We know that where compliments are best deserved they are least welcome. I need not tell you that he came out here when the control over the revenue and the land was divided. I need not tell you that no one could be more fit to fill that chair on this occasion, nor could any one fill the chair in another onerous situation with more efficiency or with more dignity than my friend. Gentlemen, I give you the toast, "The Prosperity of South Australia," coupling with it the "The Health of the Hon. J. H. Fisher." (Applause.) I do not think there is any individual in this company who is more willing to make sacrifices to promote its welfare than myself. (Hear hear.) There is no one to whose heart its prosperity lies dearer, or who will join more heartily in doing honor to the toast, which I propose that we drink in South Australian wine, liberally supplied for the purpose by an old colonist—"The Prosperity of South Australia, the Hon. J. H. Fisher, and the Founders of the Colony."

The toast was drunk with enthusiastic applause.

Mr. Daniel then sang in fine style, accompanied by the band, the company joining in chorus, the following spirited verses, from the pen of Mr. O. K. Richardson:—

THE PIONEERS OF SOUTH AUSTRALIA.

Tune—"The British Grenadiers."

Fill, fill each sparkling glass, boys,

And drain your bumpers dry!

And listen while I sing, boys,

Of days and deeds gone by.

And while we call to mind the past—its hopes—its doubts—its fears,
Let's ne'er forget the honor due to our brave old Pioneers.

They left their much-loved England,

And braved the ocean's foam,

Here, for themselves and children,

To found a freeman's home.

Now near the same old tree we meet, o'er which, with joyous cheers,
The British flag was first unfurl'd by those loyal Pioneers.

That little band of heroes,
How manfully they plied
The axe—the plough—the harrow—
And labor'd side by side !

For us they clear'd—they plough'd—they sow'd ;—a garden now appears
Where first they found a wilderness—those hardy Pioneers.

Like wave on wave advancing,
Crowds followed them ere long.
The once small band now musters
Some hundred thousand strong ;

Who've carried on through weal and woe, for one-and-twenty years,
The work so nobly then begun by our gallant Pioneers.

Beneath this gay pavilion
We sip our wine at ease ;—
Theirs was the rude tarpaulin—
Or shelter of the trees.

Think, while we gratefully enjoy each gift our hearts that cheers,
We owe all, under Providence, to our brave old Pioneers.

Chorus—

Then the bottle pass—fill high each glass ;—and with three English
cheers,
Shout hip ! hip ! hip !—with heart and lip—hurrah for the Pioneers.

The Chairman said—I rise with great pride and satisfaction to respond on behalf of the colonists generally to the toast which has just been so appropriately and so well proposed by His Excellency the Governor-in-Chief, and for which, on their behalf also, I return His Excellency the most unfeigned thanks. That toast, “Prosperity to South Australia,” is one which is at any time grateful to the feelings of South Australians, and more especially must it be so on an occasion like the present. In addressing you upon a subject so extensive in its bearings and so immensely interesting in every point of view, I feel that what I may say can only be rendered acceptable by its accuracy and truthfulness ; and having been made aware that I should have to fulfil the duty I now most cheerfully undertake, I have thought it more respectful to those who hear me and to all to whom what I utter may be made known to adopt the rather unusual course of noting down and reading what I have to say in preference to trusting to the frailty of memory and attempting an off-hand address, involving, as would be expected, a multiplicity of facts and detail, spread over and collected from a period of one-and-twenty years. The imposing spectacle we now behold cannot fail to remind many amongst us of the scene presented

on this same spot now twenty-one years since—a scene which, though less grand and gay, yet possessed an interest and momentousness all its own, as containing the germ and promise of what we now gaze upon with such emotions of joy and gratitude. On that occasion how different was our appearance! Here we stood, fresh from the tossings of the ocean, surrounded with grave novelties of uncertain omen, amidst stern cares, eager questionings, and unaffected toils of mind and muscle. Here we stood now looking back with tender, perhaps poignant thoughts of the homes we had left; now looking forward, peering into the dark future for the new homes we sought. Here we stood, and, under the formalities of that memorable hour, swore allegiance to our Sovereign, vowed fidelity to our common interests as an organised community, and looked up to the Lord and King of all nations to shield and bless us. It is not inappropriate to call to mind that a few months only elapsed before the monarch in whose name our colony was proclaimed passed for ever from the responsibilities and honors of his high station; but the thought, if somewhat saddening, is not unseemingly relieved by the recollection that there ascended the throne the illustrious Sovereign, whose reign has been more animated with the affections of all British hearts, more marked by human progress, more illuminated by widely-diffused intelligence, more quickened by marvellous discoveries and inventions, more august with legitimate and salutary influence throughout the whole circle of empires and nations, than that of any preceding monarch, in whatever land or whatever age. No future tyro in history will lack a suggestive and brilliant date of the minority of South Australia. It will stand amidst the dazzling chronicles of the first twenty years of the reign of Victoria Alexandrina. May that reign be happier still, and far prolonged! There is another chord of tenderness, which it would be unkind, nay, unjust, not to touch on this occasion, all-jubilant though that occasion be. There were those then present, but not now with us, whose names with their appropriate associations—some of them of deep and grateful and cherished interest—will recur to memory. The forms of Howard, of Light, of Gouger, of Stevenson, stood on this ground on that interesting day; and we may not withhold from names of more tender, more profound import, the tribute of a tear and a pang—all we dare pay on this occasion, though far less than is due. It is pleasant, however, to remember that the inroads of mortality have not been great amongst the oldest settlers, and that vast accessions have been made to our numbers, including multitudes whose social virtues and moral worth have won the confidence and esteem of their precursors; and that from among our own playful, prattling circles some have risen to the leadership of families, the activities of gainful commerce, and the responsibilities of position and influence. We meet to celebrate the majority of our colony. As a child South Australia attracted more than ordinary notice. It could never be called feeble,

or dull, or idle. It always had vivacity, energy and confidence quite equal to its years. Some said it was pert and noisy, others called it forward and boastful. But all this was nothing but its natural life, and vigor, and buoyancy, which developed and grew up into the spirit and robustness and self-reliance of strong and noble manhood. If any think they can point to childish follies and youthful indiscretions, we can remind them that there came also seasons of chiding and discipline, of reflection and repentance; and that as the result, without any loss of animation or action, there is quite as much manly solidity and dignity as the severest censor could look for at the age of twenty-one. In recurring to the origination of our colony it would be wrong to omit a notice of what constituted its great speciality and significance. It was meant to be a recognition, and to some extent a trial of principles. The projectors—meaning thereby not only those who emigrated, but also a number of gentlemen still remaining in England, but embarking capital, zeal and influence in the scheme—the projectors avowed this distinctive character of their plan. To the ordinary motives of emigration, which there was no affectation of denying, there were added the wish for a healthy and gradual development of the principles of self-government—a solution of the problem how best to supply an adequate and permanent source of colonial labor—the concentration of the people with all the appliances and advantages of organised society—good educational provisions and means of religion, early, prominent, sufficient, but free, harmonious and happy. To what extent the designs and hopes of the projectors and early colonists have been realised is now my purpose to show by a variety of facts and statements, some of which, as things accomplished, will be found of startling compass and amount, whilst others of which will be regarded as pre-eminently significant and hopeful as auguries of the future. In detailing the facts to which I have referred I shall endeavor to be as concise as is consistent with my proposed object, though I feel that the subject is capable of being very considerably extended. I feel also that I may possibly omit to advert to some points which might be deemed important, and should I do so, I must throw myself upon the kind consideration of those around me, and trust to their general knowledge of all that is necessary to supply my deficiencies.

Before concluding his speech Mr. Fisher introduced a full description of the colony and its material progress as given in the statistical returns of the year. But as these are already included in the abstract which I have put before the reader in the

commencement of this chapter I avoid unnecessary repetition. In the course of the proceedings quoted from the *Register* it was stated that the late Mr. Hector had conveyed to the Mayor, Aldermen, Councillors, and Burgesses of the Town of Glenelg, a plot of ground sixty-two feet square, being a portion of the land belonging to him, and numbered 184 in the provincial survey marked with the letter B. This plot of land marks the site upon which South Australia was proclaimed a province of the British Empire on December 28th, 1836, and at that time an old gum tree was standing there, which still existed in 1857. It was arranged by the committee superintending the festival in 1857, that a brass plate was to have been affixed to the tree by His Excellency, Sir Richard MacDonnell, bearing engraved on it an inscription commemorative of the event of the proclamation of the colony in 1836. This, however, as far as I can learn, was not carried out, as heavy rains falling on December 28th, 1857, delayed the attendance of the Governor for two or three hours. But the celebration of the majority of the colony in the way effected, and the proposal to mark the site of the first ceremony inaugurated by Governor Hindmarsh suggest that, as the ground has been vested in the Corporation of Glenelg with the view of preserving some record of the commencement of the colonisation of South Australia, attention should be directed to the erection of some permanent recognition of the day of the birth

of South Australia. As one of the first pioneers who arrived in South Australia with the surveying expedition in the *Cygnet* on September 11th, 1836, it can scarcely be out of place for me to make the suggestion that this object would be suitably effected by the erection of some trophy of stone or marble on the plot of ground presented by Mr. Hector, to be opened to view on December 28th, 1886—the jubilee day, when South Australia will have attained the respectable maturity of fifty years. A column of marble surmounted by the statue of Captain Hindmarsh, or some other more remarkable founder of the colony, would appropriately record the event in a lasting and appropriate manner. It may not be considered too ambitious an idea to suggest as a model for a column of South Australian marble the pillar in Egypt known as Pompey's pillar, which was erected to celebrate a triumph of arms and to perpetrate his glory. The foundation of a State which in the future will form one of a group of nations not inferior to Egypt in greatness, by a community of merchants using only the peaceful inducements of commerce is an event certainly more deserving of lasting remembrance than the martial glory of even a Roman emperor or the addition of another province to the Roman empire through successful wars. The names of the chief officers who formed the first Government in South Australia and of the Colonisation Commissioners, together with those who accompanied the first expe-

dition as civil officers of the administration, would form an interesting scroll around the pillar. In the appendix (A) will be given the names of the chief officers who formed the first Government, and the names of all civil servants of the colony who accompanied the first expedition. The dates given in the first chapter of the arrival of the vessels which brought 546 souls to South Australia to form the nucleus of a colony now (in 1885) numbering about 320,000 people, will also be an interesting if not a useful record. And here I bring to a conclusion the constitutional history of South Australia during the first twenty-one years of its existence as a British colony.



APPENDIX.

A.

List of officers in the Civil Service present in the colony on December 28th, 1836:—

- *Captain John Hindmarsh, R.N., Governor.
- *Charles Mann, Advocate-General.
- *James Hurtle Fisher, Resident Commissioner.
Colonel William Light, Surveyor-General.
Osmond Gilles, Colonial Treasurer.
- *Robert Gouger, Colonial Secretary.
- *John Brown, Emigration Agent.
Thomas Gilbert, Storekeeper.
- *Edward Wright, Surgeon.
John Woodforde, Surgeon.
- *George Strickland Kingston, Deputy-Surveyor-General.
- *Boyle Travers Finmiss, Assist.-Surveyor (late Lieut. 82nd Regt.)
- *George Stevenson, Private Secretary to Governor.
R. G. Symmonds, Assistant-Surveyor.
Alfred Hardy, Assistant-Surveyor.
John Cannan, Assistant-Surveyor.
- *Thomas (?) Neale, Assistant-Surveyor.
Sir John Jeffcote, Knt., Judge.
- *Rev. Charles Beaumont Howard, Colonial Chaplain (Ch. of Eng.)
- *Captain Lipson, R.N., Harbor-master.
Lient. William Field, R.N., Chief Officer of surveying brig *Rapid*.
William Pullen, R.N., Second Officer of surveying brig *Rapid*.
William Jacob, Assistant-Surveyor.
- *Mr. John Morphett, Agent (now Sir John Morphett).
Mr. Robert Thomas, Printer.
Mr. Rodolph Wigley, Resident Magistrate.
Mr. John Jickling, Barrister.
Rev. Thos. Quinton Stow, Congregational Minister.
— Claughton, Officer of *Rapid*.
— Barker, Officer of *Rapid*.

N.B.—Those marked * were accompanied by their wives. The above names are supplied from the author's memory, and there may consequently be a few omissions. In a few instances the Christian names were not known.

B.

An Act to establish a Constitution for South Australia, and to grant a Civil List to Her Majesty.

[Reserved, January 4th, 1856.]

Whereas by an Act of the Imperial Parliament, passed in the session holden in the thirteenth and fourteenth years of the reign of Her present Majesty, intituled "An Act for the better Government of Her Majesty's Australian Colonies," it was amongst other things enacted that, notwithstanding anything therein contained, it should be lawful for the Governor and Legislative Council of the Province of South Australia, from time to time, by any Act or Acts, to alter the provisions and laws for the time being in force under the said Act of Parliament, or otherwise concerning the election of the elective Members of such Legislative Council, the qualification of electors and elective members, or to establish in the said province, instead of the Legislative Council, a Council and a House of Representatives, or other separate Legislative Houses, to consist of such members to be appointed or elected by such persons, and in such manner, as by such Act or Acts should be determined, and to vest in such Council and House of Representatives, or other separate Legislative Houses, the powers and functions of the Legislative Council for which the same may be substituted: And whereas it is expedient to exercise the powers by the said Act vested in the Governor and Legislative Council of the said Province, and to substitute for the said Legislative Council a Parliament consisting of a Legislative Council and Assembly, constituted and elected as herein-after provided: Be it therefore enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council thereof, as follows—

1. There shall be, in place of the Legislative Council now subsisting, a Legislative Council and a House of Assembly, which shall be called "The Parliament of South Australia," and shall be severally constituted in the manner hereinafter prescribed, and such Legislative Council and House of Assembly shall have and exercise all the powers and functions of the existing Legislative Council: Provided that all Bills for appropriating any part of the revenue of the said province, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the House of Assembly.
2. It shall be lawful for the Governor to fix such places and times for holding the first and every other session of the said Parliament as he may think fit, and from time to time to change or vary the same as he may judge advisable and most consistent with general convenience and the public welfare, giving sufficient notice thereof; and also to prorogue the said Parliament

from time to time, and to dissolve the said House of Assembly by proclamation or otherwise whenever he shall deem it expedient: Provided that nothing herein contained shall authorise the Governor to dissolve the said Legislative Council.

3. There shall be a session of the said Parliament once at least in every year; so that a period of twelve calendar months shall not intervene between the last sitting of the Parliament in one session and the first sitting of the Parliament in the next session; and every House of Assembly hereafter to be summoned and chosen shall continue for three years from the day on which such House of Assembly shall first meet for the dispatch of business, and no longer, subject, nevertheless, to be sooner prorogued or dissolved by the Governor.
4. The said Parliament shall be called together for the first time at some period not later than six calendar months after the proclamation of this Act by the Governor.
5. The Legislative Council shall for the present consist of eighteen elected members, who shall be elected by the inhabitants of the said province, legally qualified to vote; and no person shall be capable of being elected a member who shall not be of the full age of thirty years, and a natural-born or naturalised subject of Her Majesty, or legally made a denizen of the said province, and who shall not have resided within the said province for the full period of three years.
6. Every man of the age of twenty-one years, being a natural-born or naturalised subject of Her Majesty, or legally made a denizen of the said province, and having a freehold estate in possession, either legal or equitable, situate within the said province, of the clear value of Fifty Pounds sterling money above all charges and incumbrances affecting the same, or having a leasehold estate in possession, situate within the said province, of the clear annual value of Twenty Pounds, the lease thereof having been registered in the general Registry Office for the registration of deeds, and having three years to run at the time of voting, or containing a clause authorising the lessee to become the purchaser of the land thereby demised, or occupying a dwelling-house of the clear annual value of Twenty-five Pounds sterling money, and who shall have been registered on the electoral roll of the province six months prior to the election, shall be entitled to vote at the election of members of the Legislative Council.
7. The Legislative Council shall, at its first meeting, and before proceeding to the dispatch of any other business, elect some member of the said Council to be the President thereof, and as often as the place of such President shall become vacant by

death, resignation, vacating his seat, or removal by a vote of the said Council, the said Council shall again elect some other member to be the President thereof, and the President so elected shall preside at all meetings of the said Council, and the election of the President of the Legislative Council shall be notified to the Governor by a deputation of the said Council.

8. The Legislative Council shall, immediately after the election of the President thereof, proceed to determine by lot the order in which the names of the several members shall be entered upon a list to be called the "Members' Roll," and at the expiration of four years from the date of issuing of the writs for the first election under this Act, and thenceforward at the expiration of every succeeding four years, such six members as shall be the first six on such Members' Roll, shall vacate their seats, and six members shall be elected to supply the vacancies so created, and immediately after the members so elected to fill the vacancies so created shall have taken their seats, they shall proceed in like manner to determine by lot the order in which their names shall be respectively placed on the Members' Roll, next after the names of the Members previously on the said roll, and in the event of a single member being elected to fill a seat in the said Council, vacant by reason of death, acceptance of office, or otherwise, the name of such Member shall be placed last on the said Members' Roll, to the intent that one-third of the whole number of members of the Legislative Council, consisting of such six Members as shall have held their seats for the longest period, shall vacate their seats every four years.
9. In case of the absence of the President, in consequence of leave of absence granted to him by the House, or of illness, or other unavoidable cause, it shall be lawful for the Legislative Council to choose some other member of the said House to fill temporarily the office and perform the duties of the President during his absence.
10. The Legislative Council shall not be competent to the dispatch of business unless there be present, including the President, or the person chosen to preside in his absence, at least seven members of the said Council, and all questions which shall arise shall be decided by a majority of the votes of those Members of the Council who shall be present, exclusive of the President, or the person chosen as aforesaid, who shall be allowed a casting vote.
11. It shall be lawful for any Member of the Legislative Council by writing under his hand, addressed to the President of the said

Council, and which writing shall forthwith, after the signing thereof be delivered to such President, to resign his seat in the said Legislative Council, and upon the receipt of such resignation by such President the seat of such member shall become vacant.

12. If any Legislative Councillor shall for two consecutive months of any session of the Legislative Council, fail to give his attendance therein, without the permission of the said Council, or shall take any oath or make any declaration or act of acknowledgment of allegiance or adherence to any foreign Prince, or power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign state or power, or shall become bankrupt, or shall take the benefit of any law relating to insolvent debtors, or become a public defaulter, or be attainted of treason, or be convicted of felony or any infamous crime, or shall become of unsound mind, his seat in such Council shall thereby become vacant.
13. Whenever any question shall arise respecting any vacancy in the Legislative Council or House of Assembly, the same shall be heard and determined by the Legislative Council and House of Assembly, respectively.
14. The House of Assembly shall, for the present consist of thirty-six members who shall be elected by the inhabitants of the said province; and any person who shall be qualified and entitled to be registered as a voter in and for any electoral district within the said province, shall be qualified and entitled to be elected a member of the House of Assembly for any electoral district within the said province.
15. No person, not being a natural-born subject of Her Majesty, shall be qualified and entitled to be elected a member of the said Parliament unless he shall have resided in the said province for the full period of five years.
16. Every man of the age of twenty-one years, being a natural-born or naturalized subject of Her Majesty, and having been registered upon the electoral roll of any district for the period of six calendar months prior to any election, shall be qualified to vote in the election of members to serve in the House of Assembly: Provided that no man shall be entitled to vote at the election of a member of the Legislative Council or House of Assembly, who has been attainted or convicted of treason, or felony, or other infamous offence, in any part of Her Majesty's dominions, unless he has received a free pardon for such offence, or has undergone the sentence passed on him for such offence.
17. If any member of the said Parliament shall accept of any

office of profit or pension from the Crown, during pleasure, excepting those offices which are hereinafter required to be held by members of the said Parliament, his seat shall be thereupon and is hereby declared to be vacant.

18. If any person by this Act disabled or declared to be incapable to vote or sit in the said Parliament, shall, nevertheless, be elected and returned as a member to serve in the said Parliament for any electoral district, such election and return shall and are hereby declared to be void to all intents and purposes whatsoever; and if any person so elected and returned, contrary to the provisions of this Act, shall presume to sit or vote as an elected member of the said Parliament of any session to be hereafter summoned and holden, such person shall forfeit the sum of five hundred pounds, to be recovered by any person who shall sue for the same in the Supreme Court of the said province, or in any other Court of Record in the said province having competent jurisdiction.
19. The members of the House of Assembly shall, upon the first assembling after every general election, proceed forthwith to elect one of their number to be Speaker, and in case of his death, resignation, or removal by a vote of the said House of Assembly, the said members shall forthwith proceed to elect another of such members to be such Speaker, and the Speaker so elected shall preside at all meetings of the said House of Assembly; and the election of such Speaker shall be forthwith notified to the Governor by a deputation of the said House.
20. In case of the absence of the Speaker, in consequence of leave of absence granted to him by the House, or of illness or other unavoidable cause, it shall be lawful for the House of Assembly to choose some other member of the said House to fill, temporarily, the office and perform the duties of the Speaker during his absence.
21. The presence of at least one-third of the members of the said House of Assembly, exclusive of the Speaker, or of the person chosen to preside in his absence, shall be necessary to constitute a meeting of the said House of Assembly for the dispatch of business, and all questions which shall arise in the said House of Assembly shall be decided by the majority of votes of such members as shall be present, other than the Speaker or person aforesaid, and when the votes shall be equal the Speaker or person aforesaid shall have the casting vote.
22. No member of the said Parliament shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or before some person or persons authorized by the Governor to administer such oath :—

"I, A.B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province of South Australia, dependent on and belonging to the said United Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatsoever, which shall be made against Her person, crown, and dignity; and that I will do my utmost endeavor to disclose and make known to Her Majesty, Her heirs and successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her, or any of them; and all this do I swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So HELP ME GOD."

23. It shall be lawful for any member of the House of Assembly by writing under his hand, addressed to the Speaker of the said House, and which writing shall forthwith after the signing thereof, be delivered to such Speaker, to resign his seat therein, and upon the receipt of such resignation by the Speaker, the seat of such member shall become vacant.
24. Every person authorized by law to make an affirmation instead of taking an oath, may make such affirmation in every case in which an oath is hereby required to be taken.
25. If any member of House of Assembly shall, for two consecutive months of any session of the Legislature, without the permission of such House of Assembly entered upon its journals, fail to give his attendance in the said House, or shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or power, or do, or concur in, or adopt any act whereby he may become a subject or citizen of any foreign State or power, or become entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or power, or shall become bankrupt or an insolvent debtor within the meaning of the laws in force within the said province relating to bankrupts or insolvent debtors, or shall become a public defaulter, or be attainted of treason, or be convicted of felony, or any infamous crime, or shall become of unsound mind, his seat in such House of Assembly shall thereby become vacant.
26. When and so often as a vacancy shall occur in the said Legislative Council or House of Assembly, upon a resolution by the House declaring such vacancy and the causes thereof,

- the President or Speaker, as the case may be, shall forthwith cause a writ to be issued for supplying such vacancy.
27. The said Legislative Council and House of Assembly, at the first sitting of each respectively, and from time to time afterwards as there shall be occasion, shall prepare and adopt such Standing Rules and Orders as shall appear to the said Council and Assembly respectively best adapted for the orderly conduct of such Council and Assembly respectively, and for the regulation of the proceedings thereof and the dispatch of business therein, and for the manner in which such Council and Assembly shall be presided over in case of the absence of the President or Speaker, and for the mode in which such Council and Assembly shall confer, correspond, and communicate with each other relative to votes or Bills passed by or pending in such Council and Assembly respectively, and for the proper passing, intituling and numbering of the Bills to be introduced into and passed by the said Council and Assembly, and for the proper presentation of the same to the Governor for the time being, for Her Majesty's assent ; all of which rules and orders shall, by such Council and Assembly respectively, be laid before the Governor, and, being by him approved, shall become binding and of force.
 28. It shall be lawful for the Governor to transmit, by message, to the Council or Assembly, for their consideration, any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, and all such amendments shall be taken into consideration, in such convenient manner as shall, by the rules and orders aforesaid, be in that behalf provided.
 29. The appointment to all public offices under the Government of the said province hereafter to become vacant or be created, whether such offices be salaried or not, shall be vested in the Governor, with the advice and consent of the Executive Council, except the appointment of the officers hereinafter required to be members of the said Parliament, the appointment and dismissal of which officers shall be vested in the Governor alone : Provided that this enactment shall not extend to minor appointments, which by Act of the Legislature or by order of the Governor and Executive Council may be vested in heads of departments, or other officers or persons within the said province.
 30. The commissions of the present Judges of the Supreme Court, and of all future Judges thereof, shall be, continue and remain in full force during their good behaviour, notwithstanding the demise of Her Majesty (whom may God long preserve), or of

Her heirs and successors, any law, usage, or practice to the contrary thereof in any wise notwithstanding.

31. It shall be lawful, nevertheless, for Her Majesty, Her heirs and successors, to remove any such Judge or Judges upon the address of both Houses of the said Parliament.
32. After the first general election of the said Parliament, no person shall hold any of the offices following—that is to say, Chief Secretary, Attorney-General, Treasurer, Commissioner of Crown Lands and Immigration, and Commissioner of Public Works, for any longer period than three calendar months, unless he shall be a member of the Legislative Council or House of Assembly, for the time being; and the persons for the time being holding such offices shall *ex officio* be members of the Executive Council.
33. No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money; nor shall any warrant for the payment of money, or any appointment to or dismissal from office, be valid, except as herein provided, unless such order, warrant, appointment, or dismissal shall be signed by the Governor, and countersigned by the Chief Secretary.
34. The said Parliament shall have full power and authority, from time to time, by any Act, to repeal, alter, or vary all or any of the provisions of this Act, and to substitute others in lieu thereof: Provided that it shall not be lawful to present to the Governor, for Her Majesty's assent, any Bill by which an alteration in the Constitution of the said Legislative Council or House of Assembly may be made, unless the second and third reading of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members of the said Legislative Council and of the House of Assembly respectively: Provided also, that every Bill which shall be so passed shall be reserved for the signification of Her Majesty's pleasure thereon.
35. It shall be lawful for the said Parliament, by any Act, to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the said Legislative Council and House of Assembly, and by the members thereof, respectively: Provided that no such privileges, immunities, or powers shall exceed those now held, enjoyed, and exercised by the Commons House of Parliament, or the members thereof.
36. No Judge of any court of the said province, nor any clergyman or officiating minister shall be capable of being elected a member of the said Legislative Council or House of Assembly.

37. The salary of the President of the said Legislative Council shall be at least equal to the salary of the Speaker of the said House of Assembly; and the salaries and allowances of the various officers of the said Legislative Council shall be the same as those of the corresponding officers of the said House of Assembly; and the chief clerk for the time being of the said Legislative Council, and of the said House of Assembly, shall respectively be removed from office only in accordance with a vote of the House of which he shall be an officer.
38. There shall be payable to Her Majesty, Her heirs, and successors, in every year, out of the Consolidated Revenue Fund of the province of South Australia, the several sums not exceeding in the whole Thirteen Thousand Five Hundred Pounds for defraying the expenses of the services and purposes set forth in the schedule to this Act annexed marked A, and the said several sums shall be issued by the Treasurer of the said province in discharge of such warrants as shall from time to time be directed to him under the hand of the Governor.
39. And whereas, by the operation of this Act, certain officers of the Government will become liable to loss of office, by reason of their inability to become members of the said Parliament, or to command the support of a majority of the members thereof, or upon other grounds without any misconduct or incapacity on the part of such officer, and it is just to compensate the present holders of such offices for the actual loss of their offices, in case the same should happen, by the causes aforesaid, or any of them—Be it enacted, That the sums set opposite the names of the persons mentioned in schedules B to this Act annexed, who at present respectively hold the offices therein mentioned, shall be payable annually, by way of retiring allowance, to such persons respectively during their respective lives, upon their respective retirement or removal from office, upon the grounds aforesaid, or any of them, after this Act shall come into operation; and all such sums as aforesaid shall be payable and paid to such persons out of the general revenue; and the Treasurer for the time being is hereby authorized and required to make such payments accordingly, on warrants under the hand of the Governor. Provided that, if after any such annual retiring allowance as aforesaid shall have become payable, the person entitled thereto shall accept any new appointment under the Crown, then such retiring allowance shall merge or be reduced *pro tanto* during the tenure of such appointment, according as the salary or emolument of such new appointment is or are of greater or less amount than such retiring allowance of such person.

40. It shall not be lawful for either House of the said Parliament to pass any vote, resolution, or bill, for the appropriation of any part of the revenue, or of any tax, rate, duty, or impost, for any purpose which shall not have been first recommended by the Governor to the said House of Assembly during the session in which such vote, resolution, or bill shall be passed.
41. This Act shall be published in South Australia by the Governor of the said Province, within three months after Her Majesty's approval of the same shall have been received, by proclamation for that purpose in the *South Australian Government Gazette*, and shall commence and take effect from the day of the date of such proclamation.
42. Anything herein contained to the contrary notwithstanding the Legislative Council now subsisting shall continue and exist until the issue of the first writs for the election of members of the Parliament hereby constituted.
43. In referring to this Act, it shall be sufficient to make use of the expression "The Constitution Act."

SCHEDULE A.

PART I.

| | | | | | | |
|---|-----|-----|-----|--------|---|---|
| Salary of Governor | ... | ... | ... | £4,000 | 0 | 0 |
| Salary of First Judge | ... | ... | ... | 1,500 | 0 | 0 |
| Salary of Second Judge | ... | ... | ... | 1,300 | 0 | 0 |
| Salary of Attorney-General | ... | ... | ... | 1,000 | 0 | 0 |
| Salary of Crown Solicitor and Public Prosecutor | ... | ... | ... | 600 | 0 | 0 |

PART II.

| | | | | | | |
|--|-----|-----|-----|--------|---|---|
| Salary of Chief Secretary | ... | ... | ... | £1,300 | 0 | 0 |
| Salary of Under Secretary | ... | ... | ... | 600 | 0 | 0 |
| Salary of Treasurer | ... | ... | ... | 900 | 0 | 0 |
| Salary of Auditor-General | ... | ... | ... | 700 | 0 | 0 |
| Salary of Commissioner of Lands and Immigration... | ... | ... | ... | 800 | 0 | 0 |
| Salary of Commissioner of Public Works | ... | ... | ... | 800 | 0 | 0 |

SCHEDULE B.

Retiring allowance on loss of office.

| | | | | |
|---|-----|------|---|---|
| Boyle Travers Finnis, Colonial Secretary | ... | £425 | 0 | 0 |
| Richard Davies Hanson, Advocate-General | ... | 375 | 0 | 0 |
| Robert Richard Torrens, Colonial Treasurer | ... | 325 | 0 | 0 |
| Charles Bonney, Commissioner of Crown Lands | ... | 250 | 0 | 0 |

An Act to further amend "The Constitution Act."

[Reserved, November 18th, 1881.]

Whereas it is expedient to further amend "The Constitution Act," by increasing the number of the members of the Legislative Council of the Province of South Australia to twenty-four, and by dividing the said province into four electoral districts for the purpose of elections for the said Council, having six members to represent each district, and by providing a means of determining any differences between the said Council and the House of Assembly, in respect of Bills twice passed by the House of Assembly, and twice rejected by the said Council—Be it therefore enacted by the Governor of the said province, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

1. This Act may be cited for all purposes as "The Constitution Act Further Amendment Act, 1881."
2. This Act, so far as is consistent with the tenor thereof, shall be construed as one with "The Constitution Act."
3. This Act shall come into operation from and after a day to be fixed by the Governor by proclamation in the *South Australian Government Gazette*.
4. Section 8 of "The Constitution Act," and section 3 of Act No. 27 of 1872, being "An Act to define the Electoral Districts for the election of members to serve in the Parliament of South Australia," are hereby repealed: Provided this repeal shall not affect anything lawfully done under the authority thereof, nor any rights acquired or liabilities incurred thereunder.
5. Except as hereinafter provided, the said province, for the purpose of the election of members for the said Council, shall be divided into the four electoral districts comprising the several electoral divisions mentioned in the schedule hereto, the names and boundaries of the said several electoral divisions being specified in the first schedule of the said Act No. 27 of 1872.
6. The present members of the Legislative Council shall continue members thereof, but subject to the provisions of this Act.
7. Immediately after this Act shall come into operation, six new members shall be elected to represent the said province in the Council by the whole province voting as one district. The names of the newly-elected members shall be placed last on the members' roll of the said Council, after the names of the members previously on the said roll, in the order following:—The name of the member who at the election obtained the least number of votes shall be placed first, the name of the member who obtained the next least number of votes

shall be placed second, and so on in rotation, the object being that the name of the member who obtained a greater number of votes shall be later on the said roll than the name of the member who obtained a less number of votes. In the event of equality of votes between all or any of the members, the members obtaining equal votes shall determine by lot the order in which their names shall be placed on the said roll.

8. At the expiration of the several periods of three years, six years, and nine years, from the coming into operation of this Act, the eight members whose names shall, at such respective periods, appear first upon the said roll shall retire.
9. Two members shall be elected by each of the said four electoral districts to fill up the vacancies created by the said periodical retirement of eight members.
10. If any vacancy shall occur from death, resignation, or any other cause, of any of the members who were elected by the electors of the whole province voting as one district, before the period for retirement of such members, the same shall be supplied in manner following, that is to say—the first of such vacancies shall be supplied by the return of a member for district No. 1; the second, by the return of a member for district No. 2; the third, by the return of a member for district No. 3; the fourth, by the return of a member for district No. 4; the fifth, by the return of a member for district No. 1; and so on in rotation.
11. If any vacancy shall occur from death, resignation, or any other cause, of any of the members who from time to time may be elected for any of the said four electoral districts before the period for the retirement of such members as aforesaid, the same shall, from time to time, be supplied by the return of a member for the district for which such member so causing the vacancy was returned; and the name of the newly-elected member shall be placed last on the members' roll for such district.
12. From and after the first election of members for the said districts, a roll shall be kept, showing the names of the members elected for the districts, and the names of the said districts, and the names of the members shall be placed on the said roll in the order of time in which they were elected; or when two or more members have been elected at the same time for a district, the member who received the least number of votes shall be placed first on the said roll, and the name of the member who received the next lowest number of votes shall be placed next, and so on in rotation; and in the event of

- equality of votes, such members shall determine by lot the order in which their names shall be respectively placed on the said roll.
13. Twelve years after the coming into operation of this Act, and thereafter at the expiration of every three years, the two members whose names are first on the roll for each of the said four electoral districts shall retire, and two members shall be elected by each of such districts.
 14. It shall be lawful for the Governor from time to time to appoint a returning officer for each of the said districts, and all writs for the election of any members of the said Council for any electoral district shall be directed to the returning officer of such district. Such returning officer shall, in respect of all electoral matters within the district for which he is appointed, have the same powers and authorities, and perform the same duties, as are at present done and performed by the returning officers for the said province. And whenever in the Electoral Act, 1879, powers are given to, or duties enforced upon the returning officer of the province, the same powers and duties shall be taken to have been given to and enforced upon the returning officer to be appointed for each district within the boundaries of their respective districts. The Governor may also appoint deputy returning officers for each district, and such deputy returning officers shall, within their respective districts, perform the duties as required by the Electoral Act, 1879, as deputy returning officers for the said province.
 15. From and after the election of the additional six members authorised by this Act, the Legislative Council shall not be competent to the dispatch of business unless there be present, including the President, or the person chosen to preside in his absence, at least nine members of the said Council.
 16. Whenever any Bill for any Act shall have been passed by the House of Assembly during any session of Parliament, and the same Bill, or a similar Bill with substantially the same objects and having the same title, shall have been passed by the House of Assembly during the next ensuing Parliament, a general election of the House of Assembly having taken place between such two Parliaments, the second and third readings of such Bill having been passed in the second instance by an absolute majority of the whole number of members of the said House of Assembly, and both such Bills shall have been rejected by or fail to become law in consequence of any amendments made therein by the Legislative Council, it shall be lawful for, but not obligatory upon, the Governor of the said province, by proclamation to be published in the

Government Gazette, to dissolve the Legislative Council and House of Assembly, and thereupon all the members of both Houses of Parliament shall vacate their seats, and members shall be elected to supply the vacancies so created : or for the Governor to issue writs for the election of one or not more than two new members for each district of the Legislative Council : Provided always that no vacancy, whether by death, resignation, or any other cause, shall be filled up while the total number of members shall be twenty-four or more.

17. In the event of the Council being dissolved, six members shall be elected for each of the said districts, and the names of such members shall be placed on the roll of members for the said districts in the order provided for in section 12 of this Act, and thereafter the several periodical retirements of members referred to in sections 8 and 13 of this Act shall date from the day of their election.

I reserve this Act for the signification of the Queen's pleasure.

WM. F. DRUMMOND JERVOIS, Governor.

C.

[Extracted from the *South Australian Government Gazette*, March 26, 1857.]

Chief Secretary's Office, Adelaide, March 25, 1857.

The writs for the election of members to serve in the Parliament being now returned, the following notice of the names of members declared by the several returning officers to be duly elected, is published for general information :—

LEGISLATIVE COUNCIL.

The Honorable Thomas Shuldham O'Halloran
The Honorable John Baker
The Honorable William Younghusband
The Honorable John Morphett
The Honorable Edward Castres Gwynne
The Honorable Anthony Forster
The Honorable Abraham Scott
The Honorable Edward Stirling
The Honorable William Scott
The Honorable James Hurtle Fisher
The Honorable George Hall
The Honorable Charles Harvey Bagot
The Honorable Henry Ayers
The Honorable Samuel Davenport
The Honorable Arthur Henry Freeling
The Honorable Charles Davies
The Honorable George Fife Angas
The Honorable Charles George Everard.

HOUSE OF ASSEMBLY.

| No. of District | Name of District. | Name of Members. |
|-----------------|---------------------|---|
| 1 | City of Adelaide | { The Honorable Robert Richard Torrens The Honorable Richard Davies Hanson Francis Stacker Dutton, Esq. The Honorable Boyle Travers Finniss John Bentham Neales, Esq. William Henville Burford, Esq. |
| 2 | Port Adelaide... | { John Hart, Esq. John Bristow Hughes, Esq. |
| 3 | West Torrens... | { Luther Scammell, Esq. James William Cole, Esq. |
| 4 | Yatala | { John Harvey, Esq. Charles Simeon Hare, Esq. |
| 5 | Gumeracka | { Arthur Blyth, Esq. Alexander Hay, Esq. |
| 6 | East Torrens.... | { George Marsden Waterhouse, Esq. The Honorable Charles Bonney |
| 7 | The Sturt..... | { Thomas Reynolds, Esq. John Hallett, Esq. |
| 8 | Noarlunga..... | { Thomas Young, Esq. Henry Mildred, Esq. |
| 9 | Mount Barker... | { Friederich Edward Heinrich Wulf Krichauff, John Dunn, Esq. [Esq.] |
| 10 | Onkaparinga | { William Milne, Esq. William Bower Dawes, Esq. |
| 11 | Encounter Bay | { Benjamin Herschel Babbage, Esq. Arthur Fydeell Lindsay, Esq. |
| 12 | Barossa..... | { Walter Duffield, Esq. Horace Dean, Esq. |
| 13 | The Murray.... | David Wark, Esq. |
| 14 | Light..... | { John Tuthill Bagot, Esq. Carrington Smedley, Esq. |
| 15 | Victoria..... | Robert Rowland Leake, Esq. |
| 16 | The Burra and Clare | { George Stickland, Kingston, Esq. Morris Marks, Esq. Edward John Peake, Esq. |
| 17 | Flinders..... | Marshall MacDermott, Esq. |

B. T. FINNISS, Chief Secretary

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